

Slavery as a Factor in the Formation of West Virginia

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INTRODUCTION

The institution of Negro slavery in America, superimposed on geographical and climatic differences, shaped the economic and social growth of the great sections of the nation along different routes. In the Northern part of the nation a commercial-financial economy with at least a quasi-democratic social structure emerged, while in the South the planter-agrarian system characterized by class stratification predominated.

As these mutually antagonistic systems matured, competition between them became severe. By 1820 the contest had narrowed itself to a struggle for control of the national government, but within another decade Northern abolitionism had broadened the issue to include the specific question of slavery as well. Within another twenty years, slavery had overshadowed all other factors in the sectional contest, and floods of oratory poured forth pro and con.

Virginia, lying along the Southern borderlands, experienced several shifts of feeling with respect to the peculiar institution, and was driven to final self-destruction by the complicated developments stemming from the existence of slavery within her bosom.

If there is any validity in the macrocosm-microcosm study technique of the medievalists, then Virginia history becomes the indispensable microcosm for the study of the nation's history. Nearly all of the major trends and developments on the national scene, even to the fighting of a civil war, have been paralleled in Virginia. But in the case of Virginia and her Western Section, the theory of secession was successfully practiced, and a new state born.

In this study, an attempt is made to outline the early growth of slavery in Virginia, and the development of the anti-slavery spirit of the revolutionary period. Expressions of opinion by prominent men and their official acts are relied on mainly in

this connection. The change in attitude, setting in after 1820, is followed by an examination of speeches, papers, etc., and especially legislative and conventional debates. In this connection greater stress is placed on the convention of 1829-30 than on later bodies. This is done for two reasons: first, the convention of 1829 was the first occasion on which free and open debate over slavery and slave property was indulged in on the floor of any official body representing the entire state of Virginia; and, second, later proceedings are largely repetitions of the arguments advanced in 1829.

In dealing with the steps leading to the admission of West Virginia into the Union, it is attempted to follow through the slave factor only, but an effort has been made to supply a sufficient number of related facts so as to achieve a measure of continuity.

I: SLAVERY IN VIRGINIA, 1619-1820

The history of the Old Dominion and her daughter State has been one of sectional strife and party conflict. From colonial times to the close of the Civil War, sectionalism was the dominant motif in the internal history of the State. Various factors have been assigned responsibility for these dissensions, but, broadly speaking, the geography of the area in question proved a determining factor. The lofty peaks of the Blue Ridge-Allegheny barrier, and the long trough of the Valley split the two parts of Virginia, and made the transfer of the older, Eastern institutions to the Western part of the State difficult. Then, too, the climatic and topographic conditions of the West proved unfavorable to the propagation of Tidewater institutions.

Such a lack of geographic homogeneity became increasingly important as a differentiating factor as time passed and the political and economic development of the area proceeded. While the East developed a plantation system based on slave labor and staple crop production, the West was evolving a diversified production from small units of cultivation tilled by their owners. That broad divergences in agricultural developments were destined to occur was well recognized by Thomas Jefferson, who wrote in a letter to M. Lesteyrie in 1808, "The limits within which the cotton plant is worth cultivating

in the United States, are the Rappahanock river to the north, and the first mountains to the west, and even from the Rappahanock to the Roanoke, we only cultivate for family use, as it cannot there be afforded at market in competition with that of the more southern region."¹

The Valley of Virginia, lying between high mountain ranges, and extending from Pennsylvania to North Carolina, offered easy access to the Scotch-Irish and German peoples arriving at Philadelphia and discovering the necessity of seeking their hoped-for lands on the frontier.² This movement of the peoples attracted by Penn's "Holy Experiment" introduced a new current of population flowing athwart the scanty stream of Eastern emigration. So it resulted that Eastern institutions were not only forced to adapt themselves to new geographical conditions, but also obliged to compete with other and different political, social, and economic concepts, many of which were more capable of development under the primitive conditions existing in the transmontane region.

These Scotch, Irish, Dutch, and German groups had been attracted to America largely through the efforts of William Penn, who had disseminated information concerning the ideals on which Pennsylvania was founded to most of the countries of Europe. They desired to obtain land in the form of small farms where they could carry on the business of agriculture personally under conditions of political and religious liberty.³ They did not anticipate the founding of a system of agriculture similar to that of Eastern Virginia or South Carolina, which would have been impossible at any rate in view of the restrictions imposed by climate and terrain.

This influx of non-English peoples became an important factor in the later sectional conflicts which developed within the Old Dominion. Their lack of British political and social traditions made them unreconcilable when Eastern Virginia reversed roles and came to occupy the part of an oppressive, absentee government such as England had been with respect to her colonies before the Revolutionary War. Although Vir-

¹ *Writings of Thomas Jefferson*, 9 vols. (New York: John C. Riker, 1853), V, p. 214.

² S. P. Norton and H. S. Cummings, *The Growth of the American Republic*, 3 vols., 2nd ed. (New York: Oxford University Press, 1942), I, p. 80.

³ *Ibid.*, I, 169.

ginia has been described as the most English of the American colonies, this statement can be accepted with reference to Eastern Virginia only. The land west of the Blue Ridge was probably not as English as Massachusetts Bay.

In the great majority of sectional conflicts there was always a clear division between the East and the West, and this was as true in colonial times as in the later period.⁴ The specific issues of sectional clashes were many, but usually centered around the question of the extension of the right to participate in government. Although the first great sectional contest was generated by the attempt to disestablish the church,⁵ later disputes concerned questions of suffrage, taxation, and governmental organization.

But throughout the course of all such sectional controversy, projecting itself into the farthest reaches of every question, and always providing a strong core of continuity for the long series of clashes, was the dark thread of slavery; which stimulated dissent, aroused the darkest passions of mankind, and, in the end, rendered compromise and reconciliation impossible. While not always billed as the top issue in sectional dispute and legislative deliberation, slavery was an everpresent issue which prevented the best minds of Virginia from reaching any satisfactory settlement on questions of suffrage, representation, and taxation. Because of its peculiar position as the unseen issue of every question, slavery must be examined against the background of social and political disputation which, by antagonizing both East and West, became an important factor in the movement which resulted in the creation of the State of West Virginia.

The precise facts concerning the introduction of Negroes into Virginia are unknown. The usually stated account of their introduction by a Dutch man-of-war is open to serious doubt. It is based on a letter written by John Rolfe to Sir Edwin Sandys in January, 1620. In relating the events of the colony, Rolfe stated that "about the latter end of August, a Dutch Man of Warr . . . brought twenty and odd negroes."⁶

⁴ Charles H. Ambler, *Sectionalism in Virginia from 1776 to 1861* (University of Chicago Press, 1916), p. 34.

⁵ *Ibid.*, p. 35.

⁶ James M. Ekshar, ed., *The Records of the Virginia Company of London*, 4 vols. (Washington: Government Printing Office, 1933), III, p. 343.

He did not state that they were the first such Negroes to reach Virginia; but, disregarding that fact, there seems to be considerable evidence that Negroes were first introduced aboard the *Treasurer*, a ship owned by the Earl of Warwick, whose piratical voyage into the Spanish West Indies created much disturbance in 1619.⁷ Since the institution of slavery was not a peculiar one, but had had wide acceptance long before the first black set foot in Virginia, it was entirely natural that it should be accepted by the American colonists. The fact that the mother country recognized and accepted the institution makes this particularly true.

In the beginning, it seems probable that the Negroes were not considered to occupy a position different from that of the indentured servants of which there were many.⁸ The only major distinction between the two groups at this early time was the fact that the indentured servant would eventually become a freeman, while the Negro must remain a servant until the end of his days. For thirty years after their introduction the Negroes did not excite much comment. Jefferson states, "I have found no mention of Negroes in the colony until about 1650 . . . the British commenced the trade, and continued it until after the revolutionary war."⁹

That slavery was rather slow in developing in Virginia is further attested by Sir William Berkeley, Governor of Virginia, who, in answer to a series of questions put to him by the British government, stated that in 1671, of forty thousand persons in the colony, six thousand were Christian servants, and two thousand black slaves. He further stated that fifteen hundred servants, mostly English, came into the colony each year, but that "not above two or three ships of Negroes" had come during the past seven years.¹⁰

The early development of slavery as an American institution can be followed by examining the various laws which

⁷ Alexander Brown, *The First Republic in America, An Account of the Origin of Our Nation, Written from the Records then (1624) concealed by the Court, Rather than from the Histories then licensed by the Crown.* (Cambridge: Houghton Mifflin and Company, 1888), p. 224. See also Edward D. Nellie, *History of the London Company of Virginia from the Foundation of the Commonwealth to the Present Time.* (Richmond: John T. West, 1910), p. 120.

⁸ Robert Beverley, *The History of Virginia in Four Parts.* (Richmond: J. W. Randolph, 1827), p. 228.

⁹ *Writings of Thomas Jefferson*, I, p. 28.

¹⁰ William Michael, ed., *Virginia Historical Register*, 6 vols. (Richmond, 1880), III, p. 28.

were enacted to define the relationship of slave and master, and to limit and control the activities of the former. Such a study reveals the fact that in colonial times Indians as well as Negroes were forced into the status of slaves. An Act of 1679 provided that Indian prisoners taken in war should be free purchase to the soldier taking them.¹¹ At a later date (1705), the term Mulatto was defined as "the child of an Indian and the child, grandchild, or great grandchild, of a Negro."¹² This definition, of course, placed disabilities on Indians by subjecting them to laws pertaining to Mulattoes. Under another Act of 1705, which provided for free and open trade with all Indians,¹³ however, the General Court decided that no Indians brought in after passage of the act, nor their descendants, could ever be slaves in Virginia.

Religious beliefs also became an important factor in determining which persons were to be considered slaves. In early colonial times it was felt that Christians should not be degraded by being reduced to slavery, and slaves who had been converted to Christianity were taken to be free after baptism. With this situation prevailing, masters were reluctant to permit Christian teachings among their slaves. This uncertain state of affairs was cleared up by an Act of 1667 which stated that,¹⁴

WHEREAS some doubts have risen whether children that are slaves by birth, and by the charity and piety of their owners made partakers of the blessed sacrament of baptisme be made free; It is enacted and declared by this grand assembly, and the authority thereof, that the conferring of baptisme doth not alter the condition of the person as to his bondage or freedom; that diverse masters, freed from this doubt, may more carefully endeavour the propagation of Christianity by permitting children, though slaves, or those of greater growth if capable to be admitted to that sacrament.

In 1670 it was provided that all non-Christian servants imported into the country by shipping should be slaves for their lifetime, but those coming by land, if infants, should serve until they were thirty years of age, and, if adults, for a period

¹¹ William W. Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619*, 12 vols. (Philadelphia: Thomas Desilver, 1823), II, p. 346.

¹² *Ibid.*, III, p. 321.

¹³ *Ibid.*, III, p. 326.

¹⁴ *Ibid.*, II, p. 346.

of twelve years and no longer.¹⁵ These provisions were modified in 1682 by an act providing that all non-Christian servants, with the exception of "Turkes [sic] and Moores [sic] whilst in amity with his Majesty," who were imported into the country should be slaves.¹⁶ This law was reenacted in 1705¹⁷ and 1753.¹⁸

The institution of slavery as it developed in early Virginia was not over-popular. As early as 1662 attempts were made to stop commerce in slaves. A law of that year provided that no Englishman bringing Indians or servants into Virginia should sell them for slaves.¹⁹ In 1699 a duty was imposed on the importation of slaves, and it was continued and increased until 1776.²⁰ In 1772 the General Assembly petitioned the Crown for the removal of restraints which prevented the Royal Governor from assenting to laws designed to check the slave trade. Refusal to grant this petition was mentioned in the Preamble of the Virginia Constitution of 1776 as a reason for separation.

After the Declaration of Independence and the removal of royal restraints, the colonists made haste to enact legislation which had been forbidden them under the rule of the royal governors. In 1778 Jefferson introduced a bill in the Virginia Legislature for the prohibition of the slave trade, and it was passed without opposition.²¹ By its terms all slaves imported after passage of the bill were declared to be free, but the effect of this legislation was largely nullified in 1785 when the act was modified by extending the freedom provision to those slaves only who were retained in Virginia for a whole year, or for different intervals of time sufficient to total one year.²² Such a provision made proof of detention for the requisite period very difficult, and reduced the effectiveness of the act in stamping out the slave trade. Another section of the law provided that no person should be a slave except such as were so on the first day of the session (October 17), and the descendants of such females. This same provision was reenacted in 1792.²³

¹⁵ *Ibid.*, VI, p. 202.

¹⁶ *Ibid.*, VI, p. 220.

¹⁷ *Ibid.*, VII, p. 427.

¹⁸ *Ibid.*, IX, p. 326.

¹⁹ *Ibid.*, XI, p. 143.

²⁰ *Ibid.*, XII, p. 100.

²¹ *Writings of Thomas Jefferson*, I, p. 38.

²² *Revised Statutes*, XII, p. 122.

²³ *Ibid.*, XIII, p. 221.

Since the laws of an age reflect the dominant thought trends of the time, the movement toward abolition of the slave trade and the limiting of the institution itself is clear. It is equally clear that the attempts to stamp out the slave trade were not wholly successful. The importation and sale of slaves were profitable, and there were plenty of men willing to incur the penalties of the law when the enterprise was worth the candle. This situation is reflected by a law of 1793 which required all justices having notice of the importation of slaves from Africa or the West Indies to cause the capture and deportation of the same.²⁴

That slavery presented perplexing problems to lawmakers and laymen alike cannot be doubted. The question concerning the legal position of the slave and the free Negro in colonial society was a growing problem which needed a definitive answer. A series of laws gradually defined the status, rights, and duties of these classes, and so slavery was given the sanction of the law. In general Negroes were forbidden to own guns or other weapons, declared incapable of giving testimony in cases where whites were a party, denied benefit of clergy, subjected to cruel and unusual punishments,²⁵ and denied the right to trial by jury.

An act of June, 1680, entitled "An Act for Preventing Negroes Insurrections" will serve as an example of the type of legislation enacted to control the blacks:²⁶

Whereas the frequent meeting of considerable numbers of negroe slaves under pretence of feasts and buralls is judged of dangerous consequence; for prevention whereof for the future, Be it enacted by the Kings most excellent Majestie by and with the consent of the General Assembly, and it is hereby enacted by the authority of the aforesaid, that from and after the publication of this law, it shall not be lawfull for any negro or other slave to carry or arme himselfe with any club, staffe, gunn, sword or any other weapon of defence or offence, nor to goe or depart from his masters ground without a certificate to be granted but upon particular and necessary occasions; and every negroe or slave so offending not having a certificate as

²⁴ Edward Shepherd, *The Statutes at Large of Virginia*, 3 vols. (Richmond, Va., 1891), 1, p. 23.

²⁵ Legislation against slaves was not as severe as would appear at first glance. While servants were whipped in place of being fined at the rate of twenty lashes for the purpose of whipping.

²⁶ *Deverge's Edition*, II, p. 231.

aforesaid shalbe sent to the next constable, who is hereby enjoyned and required to give the said negroe twenty lashes on his bare back well layed on, and soe sent home to his master, mistris, or overseer. And it is further enacted by the authority aforesaid that if any negroe or other slave shall presume to lift up his hand in opposition against any christian, shall for every such offence, upon due prooffe made thereof by the oath of the party before a magistrate, have and receive thirty lashes on his bare back well laid on. And it is hereby further enacted by the authority aforesaid that if any negroe or other slave shall absent himself from his masters service and lye hid and lurking in obscure places, committing injuries to inhabitants, and shall resist any person or persons that shalby any lawfull authority be employed to apprehend and take said negroe, that then in case of such resistance, it shalbe lawful for such person or persons to kill the said negroe or slave soe lying out and resisting, and that this law be once every six months published at the respective county courts and parish churches within the colony.

The question concerning the status of the free Negro presented a particularly thorny problem. Emancipation had existed before 1668 and there was thus a class of free blacks to be dealt with.²⁷ The existence of such a class created special problems which rendered them undesirable in the population. A law entitled "An Act for Suppressing Outlying Slaves," enacted in April, 1691, sought to resolve the problem by reducing the numbers of freed Negroes.²⁸ The following portion of the act expresses the prevalent feeling toward the free blacks:

... and forasmuch as great inconveniences may happen to this country by the setting of negroes and mulattoes free, by their either entertaining negroe slaves from their masters service, or receiving stolen goods, or being grown old bringing a charge upon the county; for prevention whereof, Be it enacted by the authority aforesaid, and it is hereby enacted, that no negroe or mulatto be after the end of this present session of assembly set free by any person or persons whatsoever, unless such person or persons, their heires, executors, or administrators pay for the transportation of such negroes out of the country within six months after such setting them free, upon penalty of paying tenne pounds sterling to the Church wardens of the Parish where such persons shall dwell with, which money, or so much thereof as shall be necessary, the said Church wardens

²⁷ St. George Tucker, *A Dissertation on Slavery with a Proposal for the Gradual Abolition of it in the State of Virginia*. (Philadelphia: Printed for Matthew Carey, 1786), p. 49.
²⁸ *Virginia Statutes*, III, p. 81.

are to cause the negro or mulatto to be transported out of the country, and the remainder of the said money to imploy to the use of the poor of the parish.

That the problem became more acute with the passing of time is attested by an act of 1723 which prohibited emancipation except in special cases to be decided by the Governor and Council.²⁹ Such legislation effectively checked manumission since the administrative difficulties involved in obtaining the consent of the Governor made the freeing of slaves a bothersome business not likely to be undertaken. It did not, however, wipe out the desire on the part of many persons for the emancipation of the blacks, but their efforts were not enough to remove the law. In his *Autobiography*, Jefferson relates, "I made an effort . . . for the permission of the emancipation of slaves, which was rejected; and indeed, during the regal government, nothing liberal could expect success."³⁰

It was not until 1782 that emancipation was again authorized, with the provision that all manumitted Negroes were to be supported by the liberator or his estate.³¹ This provision was, of course, designed to prevent the freed blacks from becoming a charge upon the state. The progress of emancipation from 1782 forward was slow but continuous. The census of 1791 listed 12,866 free Negroes, Mulattoes, and Indians in Virginia.

The problem of slavery was not one which would solve itself through a policy of salutary neglect, and this fact was well realized by the more thoughtful citizens of the time. During the period immediately before the opening of hostilities which marked the beginning of the Revolutionary War, there was a strong element which favored the legal solution of the problem through the enactment of emancipation legislation in some form. Thomas Paine, premier propagandist of the age, had introduced himself to the American public with an article entitled "An Essay on African Slavery in America" which was published in the *Pennsylvania Journal*, March 8, 1775. There is little doubt but that this article stimulated extensive speculation on the subject.

²⁹ *Ibid.*, IV, p. 132.

³⁰ *Writings of Thomas Jefferson*, I, p. 2.

³¹ *Readings Selections*, XI, p. 28.

For several years before the Revolution the importation of slaves into Virginia had been very slight.³² The refusal of the British Crown to approve colonial legislation for the absolute prohibition of commerce in slaves was a sore point with the colonists, and one which was afterward often cited as an example of British tyranny.

An early example of this antagonistic attitude toward British restraints is to be found in the set of instructions for the Virginia delegates in the Continental Congress which Jefferson prepared and presented to the Virginia convention for its approval.³³ When the House of Burgesses heard the news of the Boston Port Bill, it passed a resolution to the effect that an attack on one of the colonies was an attack on all, and that the colonies should unite to oppose such action. Because of this the Governor dissolved the House the following day. Instead of retiring to their respective homes, however, the members of the body met in rump session at Raleigh Tavern and issued a call for the meeting of a Congress to consider the whole question. It was agreed, also, that the members of the House were to meet as a convention in the autumn to select delegates to represent Virginia in that Congress. Jefferson, a member of the House, then prepared a set of instructions which he hoped the convention would approve and pass along to the delegates.

A sudden illness en route to the convention made it impossible for Jefferson to proceed, but he forwarded copies of his instructions to Patrick Henry and Peyton Randolph. These resolutions, presented to the convention by the latter, anticipated the Declaration of Independence in that they were drawn in the form of an indictment against the British monarch. A long list of grievances was stated which included the following clause aimed at the slave trade controversy:³⁴

For the most trifling reasons, and, sometimes for no conceivable reason at all, his Majesty has rejected laws of the most salutary tendency. The abolition of domestic slavery is the great object of desire in these colonies, where it was, unhappily introduced in their infant state. But previous to the emancipation of the slaves we have, it is necessary to exclude

³² James Osgood, *Introduction on Slavery*, p. 46.

³³ *Jefferson's Works*, vol. 1, p. 125.

³⁴ The instructions were stated that these instructions were roughly drawn and

all further importations from Africa. Yet our repeated attempts to effect this, by prohibitions, and by imposing duties which might amount to a prohibition, having been hitherto defeated by his Majesty's negative: thus preferring the immediate advantages to a few British corsairs, to the lasting interests of the American States, and to the rights of human nature, deeply wounded by this infamous practice.

Jefferson's instructions were considered too radical by the convention and so were not approved by that body. The instructions as finally agreed on contained no reference to a colonial grievance growing out of the use of the royal veto to negate legislation for the prohibition of the slave trade.

These same sentiments were more forcibly stated by Jefferson in his original draft of the Declaration of Independence, which read, in part, as follows:³⁵

He has waged cruel War against human Nature itself, violating its most Sacred Rights of Life, and Liberty in the persons of a distant People who never offended him, captivating and carrying Them into Slavery in another Hemisphere, or to incur miserable Death in their Transportation thither. This piratical Warfare, the opprobrium of Infidel Powers, is the Warfare of the CHRISTIAN King of Great Britain.

He has prostituted his Negative for Suppressing every legislative Attempt to prohibit or to restrain an execrable Commerce, determined to keep open a Market where MEN should be bought and sold, and that this assemblage of Horrors might want no fact of distinguished Die.

He is now exciting those very People to raise in arms among us, and to purchase that Liberty of which he has deprived them, by murdering the People upon whom he also obtruded them thus paying off former Crimes committed against the Liberties of one People, with Crimes which he urges them to commit against the Lives of another.

Sentiments such as these, originating among the leaders of Virginia, appear to have been in advance of the general attitude of the country at large. The above portion of the Declaration of Independence, which might well have made the struggle for independence a social as well as a political revolution, was stricken out of the document as it was finally adopted by the Continental Congress. In discussing the Congress-

³⁵ The original Jefferson draft of the Declaration is reproduced in Thomas Jefferson, *Writings of Thomas Jefferson*, ed. by Joseph L. Carr, pp. 1-10.

sional debates relative to the adoption of the Declaration, Jefferson related:³⁶

The clause too, reprobating the enslaving the inhabitants of Africa, was struck out in compliance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our northern brethren also, I believe, felt a little tender under these censures; for though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others.

Upon completion of the work of the Continental Congress, Jefferson returned to Virginia and to the sessions of the Virginia Legislature. Feeling that the laws of the State needed to be overhauled and that the time was ripe for such a move, he introduced a bill for the purpose which was passed in October, 1776. On the fifth of November, a committee consisting of Pendleton, Wythe, George Mason, Thomas L. Lee, and Jefferson was appointed to execute the work.³⁷

Mason and Lee excused themselves from the work, and the resulting revision was accomplished by Pendleton, Wythe, and Jefferson. In commenting on the work of the committee, Jefferson later stated:³⁸

The bill on the subject of slaves was a mere digest of the laws respecting them, without any intimation of a plan for a future and general emancipation. It was thought better that this should be kept back, and attempted only by way of amendment, whenever the bill should be brought on. The principles of the amendment were agreed on, that is to say, the freedom of all born after a certain day, and deportation at a proper age. But it was found that the public mind would not yet bear the proposition, nor will it bear it even at this day.

That attempt to emancipate the slaves, designed to be accomplished as an amendment to the digest of the laws concerning them, was defeated; but the plan, developed by the committee as described above, became the standard model for later proposals looking to abolition. Because it was based on a provision for the freeing of those born after a specified date, it is usually referred to as the post nati plan, and recommendations for its adoption were frequent in the late eighteenth and early nineteenth centuries.

During the period of the Revolutionary War more important and vital problems forced themselves on the attentions of the colonial leaders, and serious speculation on the future of slavery was little indulged in. Many slaves, however, won their freedom through service in the revolutionary armies.³⁹ Others, belonging to Tory masters, were confiscated by the State and became public slaves. These were forced to labor in lead mines during the war, but were restored to their rightful owners on the termination of hostilities.⁴⁰

With the end of the war came the realization of the necessity of shaping new governmental structures which would give expression to the freedom and independence so recently won. When the colonial leaders turned their attentions to such political reorganization, slavery again came in for serious thought. During this period most of the Northern states provided legal emancipation in one form or another. In Virginia the weight of enlightened opinion supported the position of those who held that there could be no moral justification of the institution, but that, practically, existing conditions demanded its continuation. In a letter to Robert Pleasants, Patrick Henry commented:⁴¹

I take this opportunity to acknowledge the receipt of Anthony Benezets Book against the Slave Trade. I thank you for it . . . is it not amazing, that at a time when the rights of Humanity are defined and understood with precision in a Country above all others fond of Liberty: that in such an Age and such a Country, we find Men, professing a Religion the most humane, mild, meek, gentle and generous, adopting a Principle as repugnant to humanity, as it is inconsistent with the Bible and destructive of Liberty—. . . Would anyone believe that I am master of Slaves of my own purchase! I am drawn along by the general Inconveniences of living without them; I will not, I cannot justify it. However culpable my conduct, I will so far pay my devolr to Virtue, as to own the excellence and rectitude of her Precepts and to lament on my want of conformity to them. I believe a time will come when an opportunity will be offered to abolish this lamentable evil. Everything we can do, is to improve it if it happens in our day. If not let us transmit to our descendants together with our slaves a pity for their unhappy lot, and an abhorrence of Slavery.

³⁹ Cf. George Tucker, *Dissertation on Slavery*, p. 18.
⁴⁰ *Journal of the House of Delegates of Virginia*, State Papers and Other Manuscripts from January 1, 1773 to July 3, 1789 (Richmond, 1834), III, p. 41.
⁴¹ *Johnson and Osgood, Growth of the American Republic*, I, p. 344.

Although, as demonstrated by the acts and writings of her great leaders, Virginia took the lead in developing anti-slavery sentiment, she also possessed the greatest number of slaves to be found in any single colony, having nearly three hundred thousand in 1790. The presence of such large numbers of blacks in the population convinced the leaders that emancipation would create a race problem worse than the slavery issue itself. The institution had grown to such an extent that its sheer size rendered its abolition fraught with danger unless a practical scheme for removing the Negroes could be worked out.

The large number of blacks in the population caused, also, a growing awareness of the danger of servile insurrection. The revolt of the Negroes in St. Domingo turned the attention of the Virginians to the possibility of a similar occurrence in their own State. Such a fear was not created by the events in the West Indies, since an anxiety on that point had existed even before the revolution, but St. Dominican emigres painted a vivid picture of the horrors of the slave insurrection, and by 1791 the number of slaves in Virginia was formidable.

In a letter dated December 23, 1793, addressed to the governor of South Carolina, Jefferson confided that he had received information from a French gentleman, a refugee from St. Domingo, to the effect that two quadroon Frenchmen were coming to Charleston "with a design to excite an insurrection among the negroes." This was said to be "in execution of a general plan, formed by the Bissotine party at Paris, the first branch of which has been carried into execution at St. Domingo." Jefferson indicated that he placed little reliance in the information, but said that he felt it to be his duty to warn the Governor nonetheless.⁴²

Within the course of four or five years, however, this attitude of disbelief gave way to pessimistic assurance of the ultimate certainty of insurrection. The changing attitude of leading Virginians is indicated in the following letter addressed to St. George Tucker, August 28, 1797, in which Jefferson again discusses the subject:⁴³

⁴² *Writings of Thomas Jefferson*, IV, p. 97.
⁴³ *Id.*, IV, p. 100.

The revolutionary storm, now sweeping the globe, will be upon us, and happy if we make timely provision to give it an easy passage over our land. From the present state of things in Europe and America, the day which begins our combustion must be near at hand; and only a single spark is wanting to make that day tomorrow. If we had begun sooner, we might probably have been allowed a lengthier operation to clear ourselves, but every day's delay lessens the time we may take for emancipation. Some people derive hope from the aid of the confederated States. But this is a delusion. There is but one state in the Union which will aid us sincerely, if an insurrection begins, and that one may, perhaps, have its own fire to quench at the same time.

Tension was heightened in 1800 by an attempt at insurrection in Virginia which was easily suppressed, but which resulted in the execution of some twenty Negroes.⁴⁴ Faced by an actual attempt at revolution, the Legislature of Virginia took the matter under consideration, and adopted a resolution to the effect that an area of land should be obtained, outside the United States, which could be used as a colony for the settling of blacks found guilty of insurrectionary activities.⁴⁵ This resolution was communicated to the President of the United States by the Governor of Virginia in the hope that the President might use the power of the nation to aid Virginia in transporting her blacks.

Upon receipt of the Governor's message, President Jefferson suggested the West Indies, particularly St. Domingo, as the best location for the proposed colony.⁴⁶ The Negro government of St. Domingo, he believed, would welcome the American Negroes since it would consider insurgency in an exemplary rather than a criminal light. It was decided, however, to attempt to secure land in Africa for the planting of such a colony, and in July, 1802, Jefferson directed Rufus King, American Minister to Great Britain, to negotiate with England for the purpose of obtaining permission to send American Negroes to the British colony established in Africa by the Sierra Leone Company.⁴⁷

In view of the great expense involved in transporting Negroes to Africa, Jefferson suggested a canny arrangement

⁴⁴ *Id.* IV, p. 602

⁴⁵ *Id.* *supra*, note 1, has failed to locate this resolution in the Statutes, but Jefferson's message to Congress, *Id.* IV, p. 618

⁴⁶ *Id.* IV, p. 602

whereby the project was given a commercial aspect in the hope of meeting expenses and even earning a profit. While the resolution of the Virginia Legislature and Jefferson's instructions to King dealt specifically with the transportation of blacks guilty of insurgency, there was also a desire to find a place where emancipated slaves could be sent. The belief that emancipation must be coupled with transportation was by this time a fundamental precept of all enlightened thought on the subject of slavery. This attitude is well stated in the following lines:⁴⁸

Nothing is more certainly written in the book of fate than these people are to be free; nor is it less certain that the two races, equally free, cannot live in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation, peaceably, and in such slow degree, as that the evil will wear off insensibly, and their place be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up.

Negotiations with Britain for the use of the Sierra Leone Company's colony did not terminate favorably for the American schemers, but the idea of establishing an African colony where American Negroes who had been liberated could be settled, remained as a fundamental part of the thinking directed at emancipation. Liberia, founded in the eighteen twenties, was the final fruit of the plan, and, although it was assisted by the United States government, it never promoted state emancipation. The idea was supported with sympathy by the State of Virginia, however, and in 1820 the Governor proposed to the Legislature the use of one-third of the State revenues to promote the project.⁴⁹

As has been demonstrated above, the first anti-slavery movement in America of any consequence took place during the second half of the eighteenth century, and derived a large part of its leadership and support from Virginia's men of affairs. But, whereas the Northern States were able to accomplish emancipation because of the small numbers of Negroes involved, the increasingly large number of slaves in Virginia

⁴⁸ *Quoted in* Turner, *The Rise of the New West*, Vol. XIV, *The American Nation*, ed. by Albert B. Hart (New York: Harper and Brothers, 1908), p. 124.

made abolition impractical unless the blacks could be removed from the State. This idea of transporting the Negroes became the stumbling block of the emancipation movement in Virginia. Because that problem could not be solved, no real, large-scale emancipation was accomplished within the State.

Probably the most comprehensive plan for the solution of the slave problem is set forth in the *Dissertation on Slavery* by St. George Tucker, a professor of law in the College of William and Mary, and a judge of the General Court. The *Dissertation*, published in 1796, was composed largely of lectures given by Professor Tucker in his classes at William and Mary, and presents a representative plan for gradual emancipation on the *post nati* scheme as developed by Thomas Jefferson.

Tucker recognized the momentous problem contained in emancipation and prudently advised against hasty or immediate action, because of the possible danger to both whites and blacks. He denied completely the moral justification of the institution and was concerned mainly with the preservation of the property rights of the slave owner. He was practical enough to realize the financial impossibility of any plan designed to compensate masters and deport the slaves at state expense, and his fear of the social and political consequences made him oppose the establishment of Negro colonies in America where they would be adjacent to white civilization.

Taking heart from the success of gradual emancipation as it had been worked out in Pennsylvania and Connecticut, however, he outlined a plan which he believed met all objections. As a student of the law, he submitted that there could be no property rights in children to be born in the future. In order to make the transition gradual and easy, he would require the freed Negroes to work for their masters for a period of years in order to provide for their support during infancy and childhood. By depriving the freed Negroes of civil rights, Tucker believed they would be encouraged to migrate to other places where they would receive better treatment. This would remove the race problem from Virginia.

Tucker outlined his emancipation plan as follows: "Let every female born after the adoption of the plan be

... and ...

free and transmit freedom to her offspring, both male and female.

2. But let such females serve their masters until they are twenty-eight years of age.

3. Place the administration of the plan in the hands of the county courts by registering all Negro children with the court at the time of birth.

4. Put the blacks on the same basis with the white servants in respect to food, correction, etc.

5. Let the children of Negroes be bound to service by the overseers of the poor until twenty-one years of age, and, if unemployed, after that age.

6. Prohibit Negroes and Mulattoes from holding office or a freehold (except leases for twenty-one years), keeping arms, marrying (except another Negro), or being an attorney, juror, or witness (except between or against Negroes).

A copy of this plan was dispatched to Thomas Jefferson, who replied, "I have to acknowledge the receipt . . . and to thank you for the pamphlet. . . . You know my subscription to its doctrines; and as to the mode of emancipation, I am satisfied that that must be a matter of compromise between the passions, the prejudices, and the real difficulties which will each have their weight in the operation."⁵¹

In the last decade of the eighteenth century there was general agreement among thinking Virginians that slavery was a positive evil, and the only question to be debated by serious men was the means of its eradication. While the desire to be rid of the institution was uppermost in the minds of the leaders, the dangers inherent in emancipation prevented any effective action until the expanding economy of the country made slavery a source of profit to the masters. The invention of the cotton gin, the development of new types of cotton, and the opening up of the Lower South created a demand for field hands and that demand was supplied largely from the depleted plantations of Old Virginia. Thus a new and powerful argument was beginning to make itself heard in the slavery controversy.

Men began to view the institution not as an unfortunate evil which they hoped could be abolished, but as a necessary basis for the social and economic structure, and, as such, a positive

good. This attitude developed so rapidly among the planter classes in the first quarter of the nineteenth century that soon only one position on the slave question was tenable in Eastern Virginia. When the great sectional disputes concerning representation and taxation occurred between the East and the West, any satisfactory compromise was rendered impossible by the conviction, held by the Eastern delegates, that no concessions were possible where slavery was concerned.

The passing of the revolutionary generation of great Virginians coincided with the rapid opening up of the fertile Southwest, which, through its demands for prime field hands, gave a new lease on life to slavery in Virginia, an institution which had been all but eliminated by men like Jefferson. It also marked the beginning of the decline of Virginia from her proud position of preeminence among the states. The falling torch of leadership now passed to the hands of the Deep South, which in itself represented an extension or projection of Virginia culture and civilization. Because of this similarity of institutions and mores, as well as through the realization that their prosperity was a necessary prerequisite to Virginia's well-being, Virginia was drawn along in the wake of her more prosperous sisters.

Within her own boundaries Virginia witnessed a smaller movement which paralleled in most respects the larger migration, as slavery and the plantation system moved westward into the Piedmont and Valley; but, whereas the interior regions of the more Southern states offered unsurpassed opportunities for the development of the slave power, Western Virginia, beyond the Alleghenies, proved nearly impregnable to it. This is not to say that no slavery existed there, for there were slaves in Western Virginia, but in its Western form slavery was quite different from the Eastern institution as it existed under the plantation system, and, even in its modified form, slavery was comparatively insignificant in Western Virginia.

Another factor in changing public opinion with respect to slavery in Virginia was the increasing bitterness which marked discussion of the subject on a national scale. The political quarrel of North and South across the continent resulting in the creation and admission of new commonwealths

emphasized the differences between the two economic and social systems, and brought slavery, as the fundamental basis of differences, into high relief.

Such national agitation of the slavery issue reached serious proportions in 1820, when the Missouri question precipitated the first great debate on the subject. Even at this late date, however, there were still many Virginians who abhorred the institution; but within the next decade national, political, and economic development aligned Virginia with the slave power. Such alignment was far from unanimous, as events were to prove, and was possible largely because the growing Western part of the state was politically inarticulate. The next thirty years were to witness repeated attempts on the part of the Western people to gain a more equitable representation and a democratic suffrage. But, since slavery had become a *sine qua non* to the East, the fear of Western attacks on the institution prevented effective reform until 1850, and even the settlement reached in that year left the West a disaffected section.

II: SLAVERY AS A FACTOR IN SECTIONAL CONTROVERSY 1820-1850

The general democratic movement resulting from the growing importance of the West in national affairs was reproduced in miniature in the Old Dominion. As Eastern Virginia entered even more closely into the social and economic organization of the Deep South, Western Virginia developed the free-state outlook of the Northwest; and, as in the country generally, a series of reform agitations swept the State after 1815.

In these Virginia reform movements before 1831, slavery was rarely mentioned as a direct cause of dissatisfaction by the Western delegates, but figured actively behind the scenes as a barrier to political reform. There was, indeed, a period after 1820 when Western men favored the extension of slavery, particularly in the Valley of Virginia, and along the Kanawha River Valley, but, in the trans-Allegheny region, this was due to a natural resentment of Northern abolitionism rather than to any real desire to establish the slave power in the West. It may in some measure be regarded as an off-

shoot of the stupendous development in the Lower South which saw the rapid extension of slavery into the interior regions.

As the impracticability of slavery in the Western counties became apparent, and political struggles convulsed the State, the proslave attitude declined in the West, and found strong adherents among the slave owners of the Kanawha River Valley only.⁴³ The Valley of Virginia, being topographically suited to the institution, embraced slavery, and so deserted the trans-Allegheny section and aligned herself with the slaveholding East.

A tradition of Western opposition to Eastern policy had existed from early colonial times. The clash between the planter-agrarian South and the commercial-industrial North was projected into the field of political organization with the formation of the early Republican and Federalist Parties. The ensuing political campaigns found the West usually in the camp of the Federalists, while the East supported the Jeffersonian Republicans. The trans-Allegheny country favored the ratification of the Federal Constitution, and, although the financial policies of Alexander Hamilton had encountered early opposition in the West, the desire for a strong Indian policy on the part of the federal government kept a large section of the West within the Federalist fold.⁴⁴

A further evidence of the nationalistic outlook of the transmontane region is to be found in its opposition to the Virginia and Kentucky Resolutions, in which it was joined by the Valley.⁴⁵ the national triumph of republicanism with the election of Jefferson to the presidency, and the later purchase of the Louisiana Territory, largely destroyed Federalism in Virginia, but when the new Federalist organization grew up after 1808, its greatest support came from the people west of the Blue Ridge.

This interior region of Virginia was becoming increasingly dissatisfied with the political organization of the State. Its population was increasing, and a beginning was being made in the development of its natural resources. Salt production became an important economic activity which tended to free the

West from its dependence on the East. By 1810 the white population of the West was beginning to approach that of the East, and this fact made it easy to emphasize existing inequalities of representation between the two sections. A wave of reform agitation, centering around the twin questions of suffrage and representation, resulted.

One direct result of these movements was the Staunton Convention, which met from the nineteenth until the twenty-third of August, 1816. This meeting was attended by a body of sixty-five delegates representing thirty-five Western counties. After discussing the unequal position of the West in the State government, the Convention addressed a memorial to the State Assembly asking that a constitutional convention be called to remedy existing defects. Eastern Virginia, already persuaded of the necessity of protecting her peculiar institution, displayed high alarm at this manifestation of Western determination to share in the governmental prerogative.

The assembly of 1816-1817 did not call a constitutional convention, but, under stimulus of the uneasiness caused by the Staunton Convention, agreed to a compromise which gave the West increased representation in the Senate in return for that section's acceptance of an equalization of land values for tax purposes." This compromise, although it did not cure the political malady from which the State was suffering, did quiet the reform agitation for the time and postponed the day of final reckoning.

Beginning around 1818, a marked decline in eastern wealth and population set in, while the West was gaining in population and nascent industries in the form of iron manufactures and textile mills." Such continued industrial development coupled with Eastern neglect in the matter of internal improvements, caused the West to favor the national system of Henry Clay, and the protective tariffs of the industrial North-east.

The stresses occasioned by political machinations and economic development were reflected by a series of party conventions meeting from 1816 until 1829 in which questions

of representation were discussed with vehemence and eloquence." State-wide dissatisfaction with the constitution of 1776 was growing. It had been expected, as far back as 1783, that the Assembly would call a constitutional convention, and at that time Jefferson had prepared a liberal document abolishing slavery for the consideration of the anticipated convention. In the 1820's the West wanted a general revision, and the East was calling for specific changes mostly with respect to the suffrage provisions. The cumulative pressure of this long-continued dissatisfaction finally forced the State Assembly to submit the question of calling a constitutional convention to the people. That a majority of the voters favored the calling of such a body is evidence that a desire for reform existed.

The contest between East and West opened even before the actual calling of the convention. This early skirmish grew out of the effort of the Western members in the Legislature to require the election of convention members on the basis of the white population. In this attempt the West suffered its initial defeat, a harbinger of the future. As finally approved, the method of representation employed in the constitutional convention was calculated to retain a majority vote in the hands of the Eastern delegates, and so insure a check on any radical Western innovations. This was accomplished by authorizing a convention composed of four members to be elected from each existing Senatorial District.

In the election of constitutional delegates, the contests were hot and strenuously fought, with an abundance of men of ability in the field. Contrary to the usual American pattern, residence in the district represented was not required, and this provision resulted in making it possible for all of the best able men in the State to be seated in the convention without regard to the section of the State in which they lived.

The convention, as assembled, presented a truly brilliant array of talent which probably could not have been duplicated in any other State and by few nations. Its able membership attracted the attention not only of Virginia, but the entire nation and Europe as well, and its deliberations were with-

nessed by throngs of distinguished visitors.⁶⁰ Its crowning glory was the committee appointed to accomplish the final writing of the new constitution which has been described as "the most venerable in years, in genius, in all the accomplishments of the human mind . . . that ever sat on this side of the Atlantic."⁶¹ It was composed of James Madison, John Marshall, Littelton W. Tazewell, Philip Doddridge, B. W. Leigh, Chapman Johnson, and John R. Cooke.

The body was given particular prestige by the presence of James Madison, James Monroe, and John Marshall, a trio of elder statesmen whose place in the history of the nation was already well established, but the labor of debate and committee negotiations was borne by younger men.

Champion of the West, and one of the ablest men in the convention, was Philip Doddridge, a native of the Panhandle, but a true Virginian. His ready qualities as a speaker, his fluency, his command of logic and statistics, and his candid and generous personality marked him as a dangerous opponent of Eastern privilege; and his active leadership of the Western cause called forth the best efforts of the Eastern men. He was opposed at every point by Benjamin Watkins Leigh, a well-known figure in Virginia, but one as yet little heard of in the nation at large. His work in behalf of the Eastern interests won him national recognition and established him as one of Virginia's foremost statesmen.

Other prominent men participated frequently in debate. Among the friends of reform were Alexander Campbell of Brooke, Charles S. Morgan of Monongalia, and Robert B. Taylor of Norfolk. Among the reactionaries, Leigh found able support from Judge Abel P. Upshur of Northampton, Briscoe C. Bartwin of Augusta, and Richard Morris of Hanover.

Assembling then with more brilliant membership and greater prestige than any state convention had ever before mustered, the gentlemen of Virginia proceeded to the matter of organization. Ex-President Monroe was selected for the presidency of the body, and the members settled down to the work at

⁶⁰ Mark D. Rogers, *The Virginia Convention of 1829-30: A Discourse Delivered at the Annual Meeting of the Historical Society of the State of Virginia, Held in the City of Richmond, December 12, 1883* (Richmond: Macmillan, 1884), p. 23.

hand. On October 6, Doddridge proposed a series of resolutions providing for the appointment of committees to study each separate department of government and make such recommendations for change as they deemed necessary.⁶² Other schemes of approach were offered, but Doddridge's plan was subsequently adopted on October 9. Specifically, three select committees were appointed to deal with the legislative, executive, and judicial departments, and a special committee detailed to consider the Bill of Rights plus any miscellaneous matters not properly considered by the others. These committees, once appointed, started immediate work on the task of preparing reports recommending reform.

While waiting for the select committees to complete their work, the convention heard several petitions from nonfreeholders in various part of the State pleading for an extension of the suffrage to such people.⁶³ Similar memorials were received from Richmond, Fairfax, Shenandoah, and Rockingham Counties. All were referred to the select committee raised to study the need for reform in the legislative department of the government.

On October 19th and 20th, reports were heard from the Committee on the Bill of Rights and the Executive Department, respectively. On October 22, the Committee on the Bill of Rights made a further report, and on the following day, Robert Taylor of Norfolk, a member of that committee, introduced a series of specific resolutions of his own which had not been included in the committee report.⁶⁴ These provided for the creation of a uniform franchise, for full equality of suffrage, equal representation for equal numbers, and consideration of the paying ability of the people when levying taxes. All resolutions having been laid on the table, on October 24, Madison presented the report of the Legislative Committee, which recommended, among other things, a House of Delegates elected on the basis of the white population.⁶⁵ This report was placed on the table for the time, and the convention heard a proposition introduced by William H. Johnston to redraw the bounds of the senatorial districts so as to make individual Senators represent equal numbers of

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citizens. Following this, resolutions aimed at achieving universal, white, male suffrage were offered by Samuel Claytor of Campbell and Alexander Campbell of Brooke. On the following day, Charles S. Morgan of Monongalia introduced a similar resolution.

Having now heard the committee reports, and having listened to the various desires of the members presented on the floor, the convention went into committee of the whole to consider them. Upon motion of Philip Doddridge, consideration was first given to the report of the Committee on the Bill of Rights, and this report was approved with little trouble. Taylor of Norfolk then recurred to his original propositions relative to the franchise, suffrage, and taxation, and addressed the convention in support of his proposals. This was the opening gun in the battle for reform. Once more Taylor's resolutions were laid on the table, and the convention proceeded to a consideration of the report of the Legislative Committee.

This was the report which would really furnish the main issue, and that fact was well realized by the convention members. The matter of the Bill of Rights, and the executive and judicial departments were all of secondary importance as compared to the "all engrossing" issue of the basis of representation, which was, of course, one of the matters properly under consideration of the Legislative Committee. The very first section of that report struck at the root of the problem. The first portion of the report was, "Resolved, that in the apportionment of representation in the House of Delegates, regard shall be had to the white population exclusively." As everyone expected, that section came under immediate attack. An amendment was at once proposed by John W. Green of Hampshire which would change the wording so as to make the motion read, "Resolved, that in the apportionment of representation in the House of Delegates, regard shall be had to the white population and taxation combined."

These two propositions accurately state the real point at issue in the white convention. Nearly all subsequent debating was done with an eye to the settlement of that one primary

question. The West rightly felt that without carrying this provision for the white basis all was lost, and the East was just as certain that any yielding here would be suicide. B. W. Leigh took the offensive for the East and demanded that those who advocated this "new and radical" principle come forward with some evidence to show why the "wisdom of ages" should thus lightly be set aside. He was ably answered by John R. Cooke of Frederick, who urged upon the convention the Declaration of Rights of the State of Virginia, and pointed out that the approximate numbers of slaveholders (409,758) and nonslaveholders (272,503) were such as would insure a safe continuation of power in the hands of the vested interest.⁶⁶

Green, the originator of the proposed amendment, replied; and, in his speech, revealed the real reason why the East felt that it must never grant the white basis.⁶⁷ He pointed out that during the past few years there had been a general shift in the population, so that as the number of whites was decreasing in the East, their numbers in the West were increasing. In a few more years, he said, a majority of the whites in the State would be in the Western section, and the slaveholders no longer would be able to control legislation if the mixed basis were surrendered. The West, having little or no interest in slavery, would thus be in a position to discriminate against slave property in the matter of taxation. That this would be done, he had no doubt, for the West was anxious to construct a system of roads, canals, and other internal improvements, and the only source of revenue which would make this possible was a tax on slaves. One purpose of the amendment, he said was to protect this slave property against the exploitation of the West.

Judge Upshur of Northampton continued the Eastern argument. Disclaiming any narrow sectional interest, he went on to develop a long historical and theoretical argument designed to show that there were no "original principles" of government and that specific expedients must be fitted to actual conditions. Here he found it necessary to consider property rights and especially those of slave property.

"A peculiar interest," he said, "and a great, and important, and leading interest, is presented in our slaves; an interest which predominates throughout the Eastern divisions of the state, whilst it is of secondary consequence West of the Blue Ridge."

"The slave population," he continued, "pays thirty percent of the whole revenue, and one eleventh of Virginia's power in the national assembly comes from slaves. Whether or not property in general is entitled to representation, our property is because it is peculiar."

The only fear he held was that of excessive taxation. Resistance would be the answer to any palpable inequality of rights. The argument, advanced by some people, that the number of slaves was increasing in the West, and that, therefore, the West would soon become a slaveholding community like the East, he held to be unsound. The number of slaves in the West might be increasing, but that increase was at a decreasing ratio, and furthermore,"

There exists in a great portion of the West, a rooted antipathy to this species of population; the habits of the people are strongly opposed to it. With them, personal industry, and a reliance on personal exertion, is the order of society. They know how little slave labor is worth; while their feelings as freemen, forbid them to work by the side of a slave. And besides, Sir, their vicinity to nonslave-holding states, must forever render this sort of property precarious and insecure. The moral sentiment of these states is against slavery; and that influence will assuredly be felt, notwithstanding the geographical line or narrow river, which may separate them from us. And again, Sir, the course of industry in the West, does not require slave labor. . . .

Here we see the whole position of the East laid bare,—the concept of the peculiar nature of slave property, which must be protected at all costs. Such protection required that other members of white persons be forever barred as a basis of representation, since the Western portion of the State would be excluded the East in that respect and this same Western portion because of its climate geography industry, and population would never would approve of slavery.

Phillip Doddridge replied to these arguments as follows:"

Take away the gilding. What is it? The pill that could not be swallowed last Winter; the black ratio again; not of three fifths, but the whole. They say to us, "We have many slaves, and you have few or none. The possession of this property by us, although it is not your crime, is the reason, however, that we claim to exercise over your persons, lives, and property, despotic power . . . and although it be despotism, yet we must claim and you submit to it, as nothing else can secure us against your rapacity."

If the West were disposed to take action against the slaves, Doddridge continued, the East would soon be powerless to resist anyway, because of the growing population of the Western section, which in the long run must assert itself. The Eastern plan, he held, was something of a vicious circle, since the weaker the minority became, the greater would be its need for power, according to its own arguments. The East had chosen to use the slave argument, and Doddridge had answered them. Before a vote could be taken on the matter, however, Leigh moved for an adjournment, and so prevented a vote under the influence of Doddridge's strong argument."

In the ensuing days the debate continued with increasing heat. The East continued to demand protection for its property, while the West was insistent on its political rights. The *Massachusetts Spy*," following the proceedings with interest, commented:

By the last accounts, it appears that the discussion on the basis of representation was still continued in the Virginia Convention. This subject appears to be an all engrossing one; on the decision of which, the future character of the State is materially to depend. If the white population is adopted as the basis of representation, the party opposed to slavery will soon acquire sufficient strength to govern the state; and Virginia, in a few years, will take her stand with the free states.

The parties are said to be so equally divided that a single vote may possibly control the result.

And a few days later, while the debates on the basis were still in progress, the same paper said:

The excitement is every day increasing the Western delegation, on the subject of slavery and determination to

acquire their just rights, while the Eastern delegates, long accustomed to rule, are daily losing confidence and temper.

As the discussion was drawing to a close, and a vote about to be taken on Green's amendment, Monroe rose to address the convention.⁷⁶ Virginia, he held, had always been for equal rights, but the slaves were there and could not be removed without federal aid. He traced the history of the institution in Virginia to show how it had all come about. The West, he was sure, had a strong claim, but no natural rights had been violated by the East, and it had now come to the point where concessions were necessary on both sides. In keeping with this last point, he favored adoption of the white basis for the House and the combined basis for the Senate.

That speech was a sincere attempt on the part of one of the ablest men in the convention to effect a compromise between the sections, and it might have been expected that the name and reputation of Monroe would have given great weight to his utterance, but such was not the case. Even his sage wisdom could not overcome the protection-fixation of the slaveholding element and its representatives. Leigh rose to deny the validity of the proposed compromise.⁷⁷ He stated that he did not relish the position in which he found himself. He did not like to follow a man of Monroe's stature, but if George Washington himself had made such a proposal, he would feel bound to oppose it. He revived the old arguments based on the fact that the East paid the greater taxes, and held that the mixed basis would give "exact and equal" justice to all sections.

Having met with unexpected strength in the opposition, and fearing that Monroe's speech would swing some of the doubtful Leigh was growing desperate. He seized upon Monroe's reference to the impossibility of getting rid of the slaves without federal aid, and asserted that Virginia was far too great and proud a State ever to approach the central government in the role of suppliant.

Monroe rose to explain. He stated that he considered the question of slavery to be one of the most important that had previously come before the convention.⁷⁸ What he had

meant, he said, was that if Virginia decided to emancipate her slaves, it would be necessary to request the help of the federal government in transporting them from the country. Transportation would be necessary, and the State alone could never accomplish it. The right to decide whether or not the slaves should be emancipated remained with Virginia, but this right of emancipation could not be exercised unless the government of the United States would agree to help bear the expenses.

Still clutching at straws, Leigh declared that if that were done, it would serve as a precedent for the interference in the affairs of a State by the federal government; and that, once this occurred, the Union would surely perish. Monroe merely repeated that it was for Virginia to decide, and that the non-slaveholding states must not interfere with her in the making of the decision.

The fight had, by now, become so severe that the people of the various districts were beginning to take an active interest in the position taken by their representatives. In some cases they began sending communications to their delegates instructing them how to vote. On the seventh of November, Taylor of Norfolk resigned from the convention, giving as his reason the fact that his constituents had instructed him to vote for the mixed basis which he could never do with good conscience.⁷⁹ In his resignation the reform forces lost a worthy supporter.

As mid-November approached the debates continued with unabated vigor, until finally, on November 14, 1829, a vote was called on the proposed amendment. According to the first report the vote stood at 47-47 and was decided in the negative by the vote of the chairman, but later reports seem to show that the actual count was 47 for and 49 opposed.⁸⁰ At any rate it is certain that the Green amendment was defeated.

Failure to carry the amendment left the Eastern delegates somewhat disorganized and undecided as to what course to pursue. After an amendment had been offered and withdrawn by John Scott of Fauquier, Leigh offered, on November 16, an amendment which would make the section read: ⁸¹

Resolved, that representation in the House of Delegates be apportioned among the several counties, cities, and towns of the Commonwealth, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.

With this proposition before the convention, discussion was renewed with speeches by Leigh, Nicholas, Tazewell, Doddridge, Johnson, and Mercer, while Monroe again pleaded for a compromise. When the vote was finally taken it was found that the amendment had been defeated by a 47-49 count. With this the Eastern delegates saw that, for the present, neither the mixed nor the federal basis could be forced on the convention, and so they decided to let the matter rest for the time. Here Doddridge suffered a tactical defeat. He attempted to force a decision on the basis question before proceeding to consideration of another portion of the report of the Legislative Committee, but, on the motion of Leigh, the convention voted to pass on to the suffrage question.⁸²

The matter of the suffrage was the second most important issue of the convention, and the one on which the East was most ready to grant reform, although even here there was hot dispute. The first provision of the new section had to do with the taking of a census of the population of the State for the purpose of apportioning representation among the various districts. Doddridge insisted that re-apportionment be made compulsory when the census showed that population changes warranted it.⁸³ Charles F. Mercer of Loudoun demanded that the taking of the census be made compulsory and not left to the discretion of the Legislature. These provisions were placed in the section, and the next element taken up for consideration.

This brought up the specific question of the franchise. The recommendation was that the vote be extended to all persons who owned a freehold of a value to be determined, and also to those who were heads of families and had paid taxes during the year preceding that in which they sought to vote.⁸⁴ This

was a more liberal provision than that of the constitution of 1776, which had made the right to vote dependent on the ownership of a freehold of improved land totaling twenty-five acres, or unimproved land to the extent of fifty acres. But even here the reactionary forces of the East were unwilling to grant reform. Leigh attacked the provision and sought to retain the requirement of an interest in land as requisite to the exercise of the franchise. Many of the Westerners, on the other hand, felt that the committee recommendation was too narrow, and were in favor of extending the franchise to all free, white, male citizens. Proposals to this effect were submitted by Wilson of Monongalia and Campbell of Brooke.⁸⁵

The line of debate developed by the Eastern members in opposition to these propositions was that, in effect, the universal suffrage provision would transfer governmental power from the hands of the propertied minority to those of the pauper majority, and that this must never occur lest the sacred rights of property be violated. And on this particular question the East was able to muster more support than it had commanded on the basis question, so that each proposal for universal suffrage was voted down by a comfortable margin.

On November 20, Leigh introduced an amendment designed to give the franchise to owners of a freehold of a value to be determined, and also to those persons who had other interests in realty such as leases, reversions, remainders, etc., and in support of it made one of his best speeches of the convention, in the course of which he declared,⁸⁶

Though I shall continue to resist to the uttermost of my power, all unreasonable demands from the West, I do not feel—whatever others may think of me—I do not, I cannot feel (heaven forbid that I should) any hostility to my fellow citizens of that part of the country, any disregard of their just rights, any indifference for their happiness.

Doddridge followed Leigh as speaker, and pointed out, what was by now becoming obvious, that a decision on the suffrage question would be extremely difficult to reach while the matter of the basis was held in abeyance.⁸⁷ Gentlemen of both sides might take different views once they had been assured

what the basis was to be. Monroe again spoke in a conciliatory manner, stating that while the suffrage should be liberalized, he held it proper that it be restricted to those who possessed an interest in land. The amendment, following Monroe's speech was defeated by a vote of 37 to 51.⁸⁸

Doddridge then offered an amendment which provided that the suffrage be given freeholders and to those housekeepers who actually paid a tax. This, as modified by Mercer, was finally passed, and although Doddridge tried repeatedly to have the vote extended to those who paid taxes without any other restricting qualification, he was defeated.

Having disposed of the suffrage question, the convention next considered the composition of the Senate. The original committee recommendation had been that the Senate be left unchanged, but James Pleasants proposed that representation there be based on the federal numbers.⁸⁹ Doddridge moved to amend this amendment so as to provide for Senate representation on the combined basis of white population and taxation.⁹⁰ Here Leigh pointed out what he conceived to be an inconsistency in Doddridge's actions. Why insist on the white basis for the House, he asked, and permit the combined basis in the Senate? Because, he answered, Doddridge knew that the mixed basis in the Senate would be ashes in the mouth of the East if it were forced to surrender the same basis in the House. With this, the whole question of the basis in the House was again opened up.

During the days which had elapsed since the matter had last been under discussion, both sides had been working on the problem outside the sessions of the convention, and attempting to formulate an agreement which would be acceptable to all parties. In this matter both groups remained stubborn, and a new approach was deemed necessary. A compromise measure embodying such an innovation was presented to the convention by William F. Gordon of Albemarle. This departed from any principle of representation, and simply made a division of representatives among the several sections of the State. In effect it was the technique of 1816-17 all

over again, and at best could but postpone the real showdown. The original proposition called for a Senate of twenty-four members of which ten were to come from the section west of the Blue Ridge, and fourteen from the East. In the House of Delegates the allocation of members to the sections was to be as follows: twenty-six from the trans-Allegheny, twenty-four from the Valley, thirty-seven from the Piedmont, and thirty-three from Tidewater. This proposal was laid on the table to allow the members time to consider its provisions and talk it over among themselves, and the convention went ahead with several unimportant details over which there was no controversy.

On November 30, a series of compromise measures, based on the Gordon plan, and differing only in the numbers of representatives allocated to the various sections, was introduced.⁹² These all came up for consideration on the second day of December. James Madison rose to speak, and the members rushed to gather around him, as he was physically infirm and spoke in a very low voice. He called on the convention to put aside sectional differences and effect a compromise.⁹³ His own position was that the system of the federal numbers was the safest and best basis of representation.

By this time it had become clear that neither the white, the mixed, nor the federal basis could be carried, and that the only solution possible would have to be along the lines of the Gordon amendment. Doddridge, realizing that such a settlement meant defeat for the West since it made no provision for any future re-apportionment to compensate for the growing population of that section, struggled to write into the new constitution a provision requiring a census enumeration every ten years, to be followed by a re-apportionment of representation based on the white population in the House and the federal numbers in the Senate.⁹⁴ When his efforts came to naught, he began to speak of leaving the convention and returning to his Panhandle home. Other Western members were talking in similar vein, and there was fear of disunion.⁹⁵ In this atmosphere the Gordon plan was finally adopted by a

⁹² *Ibid.* p. 204
⁹³ *Ibid.* p. 205
⁹⁴ *Ibid.* p. 206

⁹⁵ *Annals of the West in Virginia*, p. 100

49 to 43 vote, and, immediately, a flurry of new amendments was proposed and defeated.

But even though the Gordon amendment had been approved, the convention had not heard the last of the basis question. B. W. Leigh had devised a scheme of his own, which had the same approach as the Gordon plan, but went further in providing that no new counties were to be formed in the East; but that new counties, not to exceed ten in number, might be formed in the West.⁹⁶ With the creation of each new county the West was to be given an additional delegate. This plan was defeated 30-66.

Seeing that the discussion had again been opened up to permit Leigh to present his plan, Doddridge made a final attempt to place in the constitution a provision to take care of the future.⁹⁷ He again proposed a census every ten years, followed by re-apportionment on the basis of white numbers in the House and the federal numbers in the Senate. Some such principle must be adopted, he urged, or either another convention or a division of the State must result within the next few years. His amendment was lost, however, and the Gordon plan reaffirmed by a 55-41 vote.

Having now reached the point where it was feasible to undertake the actual writing of the new constitution, the convention appointed a committee for the purpose of preparing a first draft.⁹⁸ This famous committee, composed of Doddridge, Madison, Marshall, Johnson, Leigh, Tazewell, and Cooke, was appointed on December 30, and on January 4, 1830, Madison brought in the constitution which they had prepared. On the first reading of the new constitution fresh difficulties were encountered in the sections dealing with legislative representation, and these were referred back to committee for further revision. On January 7, the revamped sections were again read and the constitution approved.⁹⁹ The convention adjourned on January 15, 1830.

As finally provided for in the new constitution, the House of Delegates was to have 134 members. These were to be dis-

tributed as follows: thirty-one from the trans-Allegheny, twenty-five from the Valley, forty-two from the Piedmont, and thirty-six from Tidewater. A Senate of thirty-two members was created with thirteen from the section west of the Blue Ridge and nineteen from the East. It was also provided in the finished constitution that in 1841 and every ten years thereafter, the Legislature should re-apportion the representation of the counties, cities, towns, etc., but that it was not to change the number of delegates from each of the great districts of the State.¹⁰⁰

In order to meet the argument of Doddridge relative to the necessity of providing for future re-apportionment, and as a sop to the West, section five of the constitution provided that after 1841 and at intervals of ten years, the Legislature was authorized, provided that two-thirds of each house concurred, to make re-apportionment of Delegates and Senators throughout the Commonwealth so long as the number of Delegates did not exceed one hundred fifty, nor that of the Senators thirty-six.¹⁰¹

The new constitution, born of sectional strife and compromise, was submitted to the people for ratification, and was approved by a majority of 10,492. A breakdown of the balloting by counties, however, reveals that here again there was division between the sections. Ratification was generally favored by the Eastern counties while those of the West were in opposition. This was particularly true of the region west of the Alleghenies, and can be interpreted only as a reflection of their general dissatisfaction with what they believed to be an inadequate reform measure. They would have preferred to retain the old constitution, and hope for the calling of a new convention rather than give their approval to the half-measures of 1830.

The total effect of the Virginia convention of 1830 was to strip the Valley from the Western bloc and align her with the Eastern governing class. This was possible because the Valley was more numerous, and could therefore be relied upon to vote solid with respect to the pro-East constitution.

That the trans-Allegheny would have been patronized to an equal extent had it embraced the institution, seems a reasonable conclusion. Failure of the Virginia Convention of 1829-30 to grant universal manhood suffrage and equal white representation placed the State in the unenviable position of being one of the last states to enact political reform. Slavery had once again blocked democratic progress and rendered the maintenance of aristocratic rule imperative.

As for the trans-Allegheny, that section was more clearly designated the step-child of the East by the constitution of 1830 than ever before, and developed the psychology traditionally entertained toward a step-parent. The convention had brought open talk of disunion within the Old Dominion, and many Western men were beginning to think in terms of emancipating their section from the control of the East. After 1830 the question of slavery became a bone of contention between the two sections, with the East always developing a stricter philosophy of protection, and the West openly advocating manumission.

Although the proponents of slavery had emerged victorious from the great constitutional convention, they were not long to enjoy their victory without fresh attack. In August, 1831, there occurred in Virginia a slave insurrection led by Nat Turner, in the course of which more than fifty whites lost their lives. This event aroused deep concern and caused widespread discussion among the people; and, coming as it did soon after the appearance of the *Liberator* as the great abolitionist mouthpiece, was naturally linked with Northern abolitionism in the public mind.

As might be expected, a matter of such grave concern had considerable repercussions in the legislative halls of the State, and in the session of 1831-32, a great new debate on slavery was precipitated. In this body a committee had been created to consider the numerous petitions asking for abolition or the representation of free Negroes which were received from time to time. Following the Turner affair, fresh petitions on these subjects poured in, and the pro-slavery element sought to smother the issue by enforcing a kind of gag rule on the sub-

On January 11, 1832, William O. Goode of Mecklenburg moved the following resolution:¹⁰⁹

Resolved: That the select committee raised on the subject of slaves, free negroes, and the melancholy occurrences growing out of the tragical massacre in Southampton, be discharged from the consideration of all petitions, memorials and resolutions, which have for their object, the manumission of persons held in servitude under the existing laws of this Commonwealth, and that it is not expedient to legislate on the subject.

This, obviously, was another attempt to apply the century-old technique of closing the eyes to realities, and so preventing the necessity of action by outlawing the discussion of the topic. The Western members, however, with the defeat of the year before fresh in their minds, were in no mood to indulge the domineering demands of the pro-slave representatives, and in this attitude, they were joined by certain of the Eastern delegates, whose eyes had been opened by the Turner insurrection.

Accordingly, a substitute measure, to be inserted after the word "Southampton" in the Goode resolution, was proposed by John Randolph as follows:¹⁰⁹

... be instructed to inquire into the expediency of submitting to a vote of the qualified voters in the several towns, cities, boroughs, and counties of this commonwealth, the propriety of providing by law, that the children of all female slaves, who may be born in this State, on or after the 4th day of July, 1840, shall become the property of the commonwealth, the males at the age of 21 years, and the females at the age of 18, if detained by their owners within the limits of Virginia, until they shall respectively arrive at the ages aforesaid, to be hired out until the net sum arising therefrom, shall be sufficient to defray the expense of their removal, beyond the limits of the United States and that said committee shall have leave to report by bill or otherwise

A report of the committee itself was submitted by William H. Preston on January 16, 1832, to the effect that it had been resolved, as the opinion of the committee that it is inexpedient for the present legislature to make any legislative enactment for the abolition of slavery." Mr. Preston moved to

Resolved, That the committee be discharged from the consideration of all petitions, memorials and resolutions, which have for their object, the manumission of persons held in servitude under the existing laws of this Commonwealth, and that it is not expedient to legislate on the subject.

amend the report so as to substitute the word "expedient" for the word "inexpedient." Discussion of this motion and report and their respective amendments constituted the great slavery debate in the Virginia Legislature.

In this matter principal leadership for the emancipation arguments came from Western members, and although the speeches were not of the same high quality as those made in the constitutional convention, many able and sincere arguments were advanced. Charles James Faulkner of Berkeley distinguished himself by delivering the most effective Western utterances, and set the keynote for the reform forces in the battle.

He pointed out that his opponents represented him as embarking on a crusade against private property, and sounding a war cry of insurrection. This he denied; and, while agreeing that the inquiry was of great delicacy, he insisted upon its momentous importance.¹⁰⁴ He was no fanatic, he said, and went for no confiscation of property or wild and chimerical schemes of abolition, but he called, rather, for a deliberate consideration of the question with the object of ascertaining whether slavery could be eradicated. If that were possible, he urged its abolition; if not, then at least let the fact be ascertained, and let those waiting the decision pack their goods and find a new home in the West where they could enjoy the security denied them in their native land.¹⁰⁵

Faulkner deplored the attempt to smother the issue with parliamentary adroitness, and denied that the question was a strictly Eastern issue. No part of the country, to his mind, was more concerned in the matter than the section west of the Blue Ridge. He compared the situation of the West with that of Tidewater a century before, when it had tried to forbid the extension of slavery, but had been forbidden to do so by England. To the West the matter was a question of vital policy and a necessary measure of self-defense.

Turning to statistics, he quoted the census of 1830 to show that the black exceeded the white population in the region east of the Blue Ridge by more than eighty-one thousand, and

that, at the present rate of increase, in forty years the black majority would amount to four hundred thousand.¹⁰⁷ This could only mean that they would have to be drawn off in some manner. But state legislation in Maryland, Pennsylvania, and Kentucky had closed those areas to Virginia slaves. The more Southern markets were also being closed, hence Western Virginia offered the only site where the excess blacks could be disposed of, and this the Western people did not want and were determined to resist.

Faulkner personally favored the *post nati* plan of emancipation, and saw no infringement of private property rights in its application. The withholding of immediate abolition was compensation enough to repay the slave owner for his property rights.¹⁰⁸ He asked whether the welfare of the country was to be secondary to the rights of the slave owners, if all interests were subordinate to one. Gentlemen might form an opinion as to the results of slavery by comparing Kentucky and Ohio or Missouri and Illinois. In closing, he reiterated his desire to avoid hasty or ill-considered legislation, but held that something must be done. He was in favor of action; sober, circumspect, well-considered action.¹⁰⁹

As the debates proceeded, once more the fundamental differences of the sections were revealed. It was the old story all over again: the East holding that its slave property must be protected at all costs, and the West now insisting on a thorough canvass of the question. William B. Preston of Montgomery made reference to the Eastern attitude which held that slavery was a question on which the West had best remain silent, and denied the validity of the premise. In alluding to a statement made by Gholson of Brunswick to the effect that the chief question between the East and West was really one of internal improvements and not slavery at all, Preston said that, as far as he was concerned, he would never vote for a system of canals and railroads "which while it afforded an outlet for our produce, is to be made an inlet for the curse of slavery." In closing his speech he remarked, "We

attack that property because it is dangerous—we attack it because it is subversive of the well being of society—we attack it on principles of necessity and policy—we wish to remove the danger from the East, and prevent its existence in the West."¹¹

James McDowell, Jr., of Rockbridge, spoke in favor of the proposed amendment. He was fearful of further insurrection and possible war, and pointed out that the West had held back and given every opportunity to the East to handle the situation, but that nothing had been done. The West, he stated, did not want slavery or any increase of slavery in the State. Emancipation was practicable in the West, and would encounter no adverse sentiment in that section, where there were only sixty thousand slaves.¹¹²

Henry Berry of Jefferson spoke to the Assembly as a slave owner, but expressed surprise that anyone should defend the institution. He felt the system to be extremely inhumane and wasteful, and urged that the State possessed the necessary power to carry out the proposed plan.¹¹³

The proslavery attitude was expressed by John T. Brown of Petersburg who called attention to the financial cost of the proposed emancipation. He estimated that there were 470,000 slaves in the State, and that these were worth one hundred million dollars. This, in his opinion, was too large an investment to be tampered with. The East, as a planting community, needed the slaves, while the West, because of its agricultural system, did not. He concluded that abolition in any form was impracticable, and was far from convinced that slavery in Virginia was either criminal or immoral.¹¹⁴

William H. Brodnax believed that a plan could be worked out which would please all sections, but that various parts of the State had gone to extremes in their demands. While admitting that slavery was an evil, he traced the historical development of the institution in Virginia to show that it was not merely an evil of the present generation. He felt that something must be done, but could not stomach emancipation

He then announced three principles, which fairly well represented the sentiments of the slaveholders, and which, if they were accepted, would render any system of abolition impotent. These were: (1) no emancipation to be tolerated without immediate removal from the State, (2) no system to be acceptable which would interfere with or weaken the institution of private property, and (3) no slave or other property to be taken from its owner without his consent and approval and the payment of ample compensation.¹¹⁵ He felt that the activity of the State should be limited to the removal of free Negroes, and was strongly opposed to the people of the West deciding what should be done with the institution.

William O. Goode of Mecklenburg, who had introduced the original motion, defended himself and his motion by questioning the statistics employed by his opponents to show Virginia and the other slave-holding states in a bad light. He also emphasized the high cost of emancipation which he estimated to be at least five hundred million dollars.¹¹⁶

These famous debates served to draw still more definitely the line separating the East and West on the slavery question. It must be understood, however, that no unanimity prevailed in either section, and that many specific exceptions may be found to any generalization. Even so, there is little doubt as to the position of the majorities of the two sections with regard to Negro slavery. The only practical effect of the debates was the enactment of a law appropriating money for use in the transporting of free Negroes from the state, and this was but a feeble blow at the giant which was throttling Virginia.

These legislative discussions, however, attracted wide attention and stimulated much speculation as to their ultimate result. This was indulged in especially by the newspapers of the day, and brought forth several interesting articles. With the conclusion of the debates there appeared in the *Richmond Enquirer* for February 4, 1832, a summation of the proslave argument called the *Appomattox Letter*. This writer also severely criticized some members of the Legislature who had opposed the slave power, and called on divine Providence as au-

thority for the existence of the institution in the following words:¹¹⁷

Necessity, it has been argued, imperiously dictates abolition and deportation. On the contrary, we lie under an invincible necessity to keep them here, and to hold them in subjection; a necessity imposed upon us by Providence. For I firmly believe that it was a dispensation of Providence, that sent them hither; it is a dispensation of Providence, that here they shall remain; and Providence, in its own good time, will dispose of them and us according to its wisdom. Such a change as is proposed, of the destiny of millions of human beings, is a work too mighty for the finite wisdom of man, and it is the part neither of true philosophy nor of true religion to attempt it.

Following publication of the *Appomattox Letter*, other summations of the proslave argument appeared all over the South as the slaveholders sought to rally their forces to meet the abolitionist attack. The most important of these came from the pen of Thomas Dew, a young professor at the College of William and Mary, who was fresh from study in the great German Universities, and who could, therefore, bring the prestige of the scholar into the arena.

Dew's *Review of the Debates in the Virginia Legislature of 1831-32* became a landmark in the development of the slavery philosophy in Virginia. In the interval between Jefferson and Dew, the scholarly attitude had completely reversed itself. The pen of the scholar now defended the institution which only a few decades before it had so bitterly attacked. But if Jefferson and Dew are viewed as the products of their environments, and the course of political and social evolution borne in mind, the situation is not inexplicable.

Dew believed that a debate on the subject of abolition was improper so soon after the Nat Turner insurrection, since it would be interpreted as evidence that insurrection could cause the abolition, and would, therefore, be an open invitation to further disorder among the blacks. He felt, also, that before entering any such debate, the Virginia legislators should first ascertain the desires and wishes of the other slaveholding States as a matter of courtesy. These errors of strategy and timidity he attributed to the fact that the legislators were young and inexperienced, which was also a good

¹¹⁷ *Appomattox Letter*, p. 21. This was first published in the *Richmond*

reason for discounting their arguments. Before any serious debate on the subject could be held, he believed, it would be necessary to hold an election on the issue so as to permit the people to return older, more experienced men.

After "mature and intense" consideration, Dew concluded that every plan of emancipation and exportation was totally impracticable.¹¹⁸ An attempt to execute such a plan would only increase the evils complained of. Making use of his academic background, he argued from the existence of slavery in the ancient and classical civilizations that it had always been prerequisite to the development of any high civilization, and that, in this respect, the South was no exception.

In considering the institution among primitive peoples, he found the Inca and Maya civilizations of South and Central America dependent on the existence of slavery. It would have been better, he felt, for the North American Indian if he had been enslaved, for "Slavery, we assert again," he said, "seems to be the only means that we know of, under heaven, by which the ferocity of the savage can be conquered, his wandering habits eradicated, his slothfulness and improvidence—by which, in fine, his nature can be changed."¹¹⁹

Turning from history to economics, Dew pointed out the prohibitive cost of emancipation. Assuming that owners were to be paid for their slaves, he set the necessary cash outlay at one hundred million dollars; but this would be only a part of the total expense, he held, because, with the removal of the slave population, land values would decline. Then, too, the government, in buying slaves for emancipation, would be bidding against the Southern planters, who would also be in the market, and this competition would force the price of slaves up and so increase the total cost.¹²⁰ No other road to emancipation was open since the greatest object of government was the protection of property, and this could only mean that the planters must be paid for their slaves.

In considering the situation between the Eastern and Western parts of the State, Dew stated, "The fact is, it is always

¹¹⁸ *The Pro-Slavery Argument* (Philadelphia: Lippincott, Grambo, and Company, 1852), p. 272. This work contains the essays of Chancellor Harper, Nathaniel Packer Nimmo, and Professor Dew.

a most delicate and dangerous task for one set of people to legislate for another, without any community of interest. It is sure to destroy the great principle of responsibility, and in the end to lay the weaker interest at the mercy of the stronger. It subverts the very end for which all governments are established, and becomes intolerable, and consequently against the fundamental rights of man, whether prohibited by the constitution or not."¹²¹ Prophetic words! It wanted only another twenty years to see their realization in a manner not anticipated by Professor Dew as he wrote them!

Elaborating further on the matter of the sectional differences, Dew continued:¹²²

If a convention of the whole State of Virginia were called, and in due form the right of slave property were abolished by the votes of Western Virginia alone, does anyone think that Eastern Virginia would be bound to yield to the decree? Certainly not! . . . Now only sanction the doctrine of the Virginia orators, let one interest in the government (the West) rob another at pleasure (the East); and is there any man who can fail to see that government is systematically producing that very oppression for which it is intended to remedy, and for which alone it is established? In forming the late constitution of Virginia, the East objected to the "white basis principle," upon the very grounds that it would enable Western to oppress Eastern Virginia, through the medium of slave property.

The entire argument for abolition, he held, had a tendency to disorganize and unhinge the condition of society, and would cause Virginians to flee to other states if the agitation were continued. Emancipation without deportation, to his mind, was more practical, and more apt to be forced on Virginia from without. This, however, was utterly unthinkable, because the slaves were unfit for freedom among the whites and would be unable to make a living and thus become criminals.

In considering the claims made by the abolitionists to the effect that slavery was unjust and inhumane, Dew found comfort in the fact that the original sin was not on the head of the present generation, and that only a worse evil would follow emancipation. "He then denied any sin in connection with emancipation (as distinct from the original enslaving) and

cited Biblical examples. He denied any evil moral consequences in slavery and held Jefferson to be mistaken when he stated that slavery was a bad influence on children; for, said Dew, they may learn much of kindness and human forbearance from their parent's treatment of slaves.¹²⁴

As for the West and the sectional struggle, he believed the remedy to be a system of internal improvements which would appease the Western people and turn their minds from the slavery issue.¹²⁵ In view of this, he held the Western policy of urging emancipation to be "miserably shortsighted and suicidal." "Let us," he concluded, "reflect on these things, and learn wisdom from experience; and know that the relations of society, generated by the lapse of ages cannot be altered in a day."¹²⁶

To such an extent had the attitude toward slavery changed in the East. Scholarship was now directed to sustaining it, and in this effort the work of Dew became the Eastern, and on a broader scale, the Southern Bible. The transmontane region, defeated in the constitutional convention, and failing to carry the day in the legislative debates of 1831-32, remained a dissatisfied region, and was now more isolated than before, since, by the constitution of 1830, the Valley had been weaned away from the West and had joined its fortunes with the slaveholding society of the East.

As slavery became a sharper issue on the national scale, the sections of Virginia remained divided, even though the West showed signs of resentment against Northern abolitionism. The Western man might denounce New England interference in Virginia, but he reserved his own right to criticize his state government as he saw fit. The Western attitude still generally favored abolition, and when nullification became a national controversy, the doctrine was staunchly opposed in Western Virginia. Western members of the assembly of 1832-33 were met to consider federal relations and voted to support the states-rights theories of Calhoun, opposed the whole Southern argument.

The remainder of the decade of the thirties passed without notable events in the field of sectional bickering, but the wedges of separation were being driven ever deeper as new industrial development came to the West and outside capital was attracted to the region. By 1840 the white population in the West exceeded that of the East, and, as Doddridge had foreseen, the compromise of 1830 offered no solution to these dynamic conditions. There was, however, a saving clause in the constitution which made possible a re-apportionment of representation in 1841 and every ten years thereafter, providing only that two-thirds of both houses concurred in the action.¹²⁹ The joker was that by the terms of the constitution of 1830, the East controlled the Legislature, and was not likely to favor any re-apportionment which would shift legislative control to the West.

In view of its just claims to increased representation, the West expected the Legislature to act in the matter of re-apportionment in 1841, but the Assembly of that year postponed the matter indefinitely. This action was the cause of renewed demonstrations in the West and further talk of dismemberment.¹³⁰ The Western move for reform was again defeated in 1842-43 by a strictly sectional vote, and, after that date, was submerged in national issues until 1845.¹³⁰ In that year, when the matter of the re-allotment of representation again became a party issue, it was directed and controlled by the Eastern rather than the Western party leaders. Skillful rationing of pork from the Richmond barrel kept Western Whigs and Democrats disunited, and so postponed the calling of a convention in 1846-47 and 1847-48.

But during these same years, a new element began to appear in Western thought directed toward the solution of the governmental difficulties of the State. This was a demand for the abolition of slavery in the Western part of the State, even though it be continued in the East. Between 1834 and 1850 the emergence of some of the leading men in the West were devoted to discovering some means of ridding that section of slavery. Various proposals were made, and schemes for grad-

¹²⁹ Doddridge, p. 12.

¹³⁰ *Journal of the Legislature of Virginia*, p. 123.

ual emancipation emanated from Henry Ruffner, Samuel Moore, John Letcher, and others.

The most widely known of these was probably that of Henry Ruffner, which was incorporated in his *Address to the People of West Virginia*. Ruffner, a minister and college president, had been active in lecturing before the Franklin Society of Lexington, and it was there that he first delivered his speech concerning slavery. At the request of friends interested in destroying slavery in the West, he furnished the material for publication and general circulation. *The Address*, although little publicized by historians, places Ruffner in the foremost ranks of the constructive critics of slavery. His work preceded that of Hinton R. Helper by ten years, and presents a saner and more sensible approach to the problem.

This booklet, published in 1847, opens with a discussion of the long fight for equality of representation, and asserts that the coming census (1850) would serve to high light the discrepancy as never before, and that West Virginians would make a final and decisive effort to obtain equality on the basis of the new census report.¹³¹ This was a clever opening designed to employ the representation question, then high in current interest, as a vehicle for carrying the real burden of his thoughts,—gradual emancipation in the West. In his opening remarks, he anticipated the calling of the constitutional convention of 1850, and was, in effect, striving to lay the foundation for a concerted Western move for abolition in that body. He also anticipated that the white basis might be granted in the next convention, but warned that, now, this would not be sufficient. Slavery itself must be removed from the Western portion of the commonwealth.¹³²

In discussing the debates of 1832, he expressed his belief that happy effects would have resulted if the motion to effect gradual emancipation had been approved for the Western assembly.¹³³ He did not censure the Eastern men for their attitude toward abolition in their own section, but stated that the West was aggrieved that the Eastern majority had been compelled to deter the West from obtaining measures conducive to its welfare.

Henry Ruffner, An Address to the People of West Virginia (Lexington, R. C.

While admitting that no constructive steps toward abolition had been taken in the West since 1832, Ruffner insisted there had been no general change in sentiment. The inaction, he explained, was owing mainly to the helplessness of the West in the State Legislature, and the unwillingness of the Eastern members to cooperate in such matters.¹²⁴ He found the greatest bar to the achievement of emancipation, however, in the activities of the Northern Abolitionists of the Garrison stripe, who had accomplished nothing but the tighter forging of the chains which bound the slaves. Abolitionism had done immense harm to the cause of gradual emancipation.

All that the West now asked the East, he said, was that it refrain from interfering or refusing its consent when the West proposed a law to remove slavery from the area west of the Blue Ridge.¹²⁵ This marked something new in the approach to emancipation. There was now little hope of removing slavery from Eastern Virginia, but the Western section sought to save itself from the blight.

Drawing on statistics, Ruffner illustrated how, in slave states, population soon lagged, then stopped, and finally declined, all within the course of three generations. Because of slavery, he said, Virginia had lost three hundred and seventy-five thousand persons through emigration in the years between 1820 and 1840. To show that slavery was a blight on the land, he demonstrated that the average income per hand employed in agriculture in Virginia was far below that of New England and the Middle States.

Among other pernicious effects of slavery was the fact that it drove the white workingman and mechanic from the land with the sad result that, although Virginia was more blessed with natural resources than most states, she produced less in the way of manufactured goods and mineral products than the New England states.¹²⁶ Other evidence of the bad effect of slavery on the State was to be found in the decline of Virginia commerce, which had dropped in value from an average of one million dollars per year in 1820 to two million one hundred thousand in 1840.

To clinch his indictment of slavery, Ruffner compared areas of Virginia with contiguous regions in Pennsylvania where the land was almost identical, and the only variable was slavery. First he compared the rates of population growth in Western Pennsylvania and West Virginia during the decade 1830-40, and showed that the increase was roughly thirty-seven and fourteen per cent respectively. In comparing the Valley of Virginia with that portion of the same great valley included in Eastern Pennsylvania, he found the rates of population increase to be fourteen and thirty-eight per cent respectively. Here the effects of slavery as a deterrent to population growth were crystal clear.

Ruffner's chief fear, however, was that, with the decline of cotton prices in the South, the market for field hands would fall off and slaves would become cheap. This would mean that the slaveholders of Eastern Virginia would have to sell more Negroes to keep up their incomes; and, since the Southern market would be closed, they would send them over the mountains to Western Virginia by the thousands. "Every valley will echo with the cry 'Negroes, Negroes for sale. Dog cheap. Dog cheap.'"¹³⁷ Because of their cheapness, he feared, people would buy them and thus Western Virginia would become slave country.¹³⁸

Then you will have given your children for their inheritance, this lovely land blackened with a Negro population—the off-scourings of Eastern Virginia—the rag end of slavery. . . . Delay not then . . . to raise a barrier against this Stygian inundation,—to stand at the Blue Ridge, and with sovereign energy say to this Black Sea of misery, "Hitherto shalt thou come, and no farther."

The specific plan included in Ruffner's address did not differ materially from numerous others dating from the days of Thomas Jefferson and St. George Tucker. It provided for the prohibition by law of further importation of slaves into the Western part of the State, the maintenance of the condition of servitude for the slaves then living, but the freeing of the children of such slaves born after a specified date. He would permit the free exportation of slaves out of the region, except in the case of children born after the date set for the plan to

begin operation. In their case exportation would be permitted until they attained the age of five years and not after that time. This provision was intended to prevent masters from retaining slaves up until the time for emancipation and then selling them into slave territory.

While including a provision for the training of the children, the "heirs of emancipation," in the three R's and religious instruction, Ruffner also added the requirement that the emancipated Negroes be colonized in Liberia, and that they be forced to work for a year or two after emancipation to help defray the cost of this undertaking. The expense of such a program to the people of Western Virginia he estimated at twenty-five thousand dollars in the first year of its operation. He believed that, as time passed, the declining numbers of eligible Negroes would decrease the annual cost, and that it would never, after the first year, reach the above figure again.

Ruffner's address fitted easily into the pattern of political discussion in Virginia.¹³ It was well received in the Western part of the State, but in the region of the Valley its reception was damaged by the activities of the Northern abolitionists, who had managed to excite strong opposition to any whisper of emancipation. Needless to record, the address was denounced throughout the Eastern section of Virginia, and caused some talk to the effect that separation might be the only cure for the sectional controversy.

After 1848 the reform movement urging the calling of a new state convention gained considerable support in the East where many persons recognized the need for suffrage reform. Now that both sections were agreed on the need of action, the only question for dispute between them was the method of effecting it. As in 1829, the issue was over the method of electing delegates to the reform convention, and, as in the former case, the East was once more successful in imposing its will on the Western people. In 1850 the General Assembly enacted a bill authorizing a constitutional convention to be elected on the second year. This scheme gave the East seventy-six delegates to the body and allowed the West only fifty-nine. Once their demands had suffered in order that the peculiar prop-

erty of the people of Eastern Virginia might not be endangered. This bill was submitted to the people of the State for ratification after its passage by the Assembly, and Western dissatisfaction with the organizational provisions is indicated by the attempt made by that region to defeat it.

The reform convention of 1850 assembled on October 14, in the meeting hall of the House of Representatives under less auspicious circumstances than those attending the convention of 1829-30. The later convention, although numbering men of ability among its membership, lacked personages of the stature of the earlier group, and did not attract the exterior attention accorded the Virginia statesmen of 1829. In the view of many persons this was just as well, for, as the *Wellsburg Herald* stated, "Great men are not wanted on such occasions, but men who are sound, honest, and uncommitted."¹⁴¹

A committee of thirteen members was appointed to decide the proper method of approach to the question of reform, and recommended that separate committees be appointed to deal with specified topics. The recommendation was accepted and committees appointed to study the matters of the basis and reapportionment, suffrage, the legislative department, the judiciary, county courts, the executive department, education, and the Bill of Rights.¹⁴² As might be expected, the first several days of the convention were taken up by the presentation of various resolutions embodying the aspiration of the sections or of individual members. Noticeable among the resolutions presented by the Eastern members was one moving that the Legislative Committee be instructed to inquire into the expediency of providing a uniform tax system on the *ad valorem* principle.¹⁴³

The most important question of the convention was again that of the basis of representation, with the matters of the suffrage and taxation vying for second place. The positions and arguments of the great sections of the State were largely repetitions of the earlier convention, with the exception of the fact that increased population had given the West more confidence in her position, and she was, therefore, more insistent on

¹⁴¹ *Wellsburg Herald*, 1850, p. 1036.
¹⁴² *Proceedings of the Convention of the State of West Virginia*, 1850, p. 34.
¹⁴³ *Proceedings of the Convention of the State of West Virginia*, 1850, p. 34.

reform. The old bugaboo of slave property again prevented effective reform and occupied much of the time of the convention. The outstanding men championing the Western cause were William T. Willey of Monongalia, George W. Summers of Kanawha, and Henry A. Wise of Accomac, who, although an Easterner, was regarded as the master mind of the reform forces.¹⁴⁴

As the work progressed it became apparent that an impasse had been reached. The committee appointed to deal with the basis reported that it could not reach an agreement, and so presented two separate plans of representation for the approval or rejection of the convention.¹⁴⁵ When it was discovered that the Eastern members were determined to block the white basis at all costs, indignation ran high in Western Virginia, and there was much talk of a division of the State. A Panhandle newspaper, after reporting the progress of the convention, added:¹⁴⁶

... It will be inferred that little of favor can be hoped by the West at the hands of the East. Such is the truth; all she gets she must take. The East will hang on to power until, falling back upon the Bill of Rights, the sovereign numbers of the people assert their power, even by revolution, and seize that, by the strong arm, which the plea of right and justice will never get them. Revolution, or the fear of revolution, and nothing less, will unlock the miserly grip of our eastern lords. . . . We say instruct our Western members to leave the convention rather than sacrifice a single iota of the white basis principle.

Numerous mass meetings were held in the Western counties for the purpose of drafting resolutions to be forwarded to the Convention so that expressions of the Western determination to have the white basis or none might be constantly before the delegates. These activities, coupled with the open threats of the newspapers, warned the slavocracy that it would not be able to coerce the West into accepting the mixed basis or even a compromise which mitigated against that section in both houses of the General Assembly as had been done in 1830. The East then, although it possessed sufficient votes to carry the mixed basis, refrained from doing so, and many attempts at compromise were considered. All these having failed, a

special committee of eight was appointed to negotiate an agreement which would be acceptable to all sections. Recognizing the uselessness of trying to deal with broad principles of representation, the committee fell back on the idea of the compromise of 1830, and recommended a House of Delegates composed of one hundred and fifty members of which number eighty-two were to be from the West and sixty-eight from the East. It also recommended a Senate of fifty members with thirty of their number drawn from the East and twenty from the West. A rather complicated provision for re-apportionment in 1865, and every tenth year thereafter was also recommended. This plan, with slight modification, was the one finally accepted by the reform convention.

During the course of debate tempers flared and feelings ran high. While the speeches were, in general, of a lower order than those of 1829, there were occasional flashes of brilliance. According to contemporary accounts, the speakers themselves were far from consistent in their performances. One such account by an eye witness characterized the efforts of Henry Wise as follows: "At one time his voice rings like the bleat of a suffering calf, again it sinks to the solemn sound of a Sunday sermon."¹⁴⁷

With respect to logic and reasonableness, the speeches of Waitman T. Willey command attention. The following quotation will serve as a sample of his logical approach to the problem, and because of its prophetic significance, might well have been heeded by the Eastern delegates to whom it was addressed:¹⁴⁸

But the question will arise when you make your slaves, as the subjects of taxation, the instrumentality of political and personal inequality in the government, can it be expected that men will ardently and cordially support Negro slavery, when by so doing they are virtually cherishing the property which is making slaves of themselves? What will be the result? It is impossible that the morbid, pseudo-philanthropic spirit of Southern abolitionism should ever find a resting place in Virginia. But will not a hostility to slavery be engendered by the incorporation of such a principle into the constitution? Your claims by this principle, drive us from the common platform of equal rights and usurp our place. Will the spirit of free-

¹⁴⁷ *ibid.* May 8, 1862.
¹⁴⁸ *ibid.* March 23, 1861.

men endure it? Never! Either the principle must be abolished, or you will excite a species of political abolition against property itself. You will compel us to assume an attitude of antagonism towards you, or towards the slaves, and like the man driven to the wall, we shall be forced to destroy our assailants, to save our own liberty.

Despite all attempts to settle the matter by approving a principle of representation, however, the compromise suggested by the committee was found to be the only possible solution, and so was written into the constitution of Virginia. In viewing the work of the reform convention of 1850, we must conclude that, while it was an improvement over 1830, it was still an inadequate base for the government of the commonwealth. The greatest reform was in the extension of the suffrage to all white, male, citizens. There was also a general liberalizing of the government through the abolition of the Council of State, and by making the Governor, Lieutenant Governor, and judges elective by the people. But on the matter of the basis of representation, the delegates of 1850 were no nearer a satisfactory solution than those of 1829. The compromise effected in the later convention was more favorable to the West than the former, since Western members were now in the majority in the lower house of the General Assembly, but the final settlement of the question had been postponed until 1865 by the terms of the new constitution.

In return for granting to the West an adequate representation in the lower house, the East asked and received assurances and guarantees concerning the taxation of slave property. The provision of the new constitution which forbade the taxing of slaves under twelve years, and limited the tax on those over that age to a sum not to exceed the amount charged on real estate at three hundred dollars was an effective guarantee that the new Western majority in the House would be unable to do as at the institution of slavery through exorbitant taxation, which had been the chief fear of the East.

Most of the Western people had by now given up the idea of emancipation in Eastern Virginia, and probably few of them felt that slavery could be abolished in the Western part of the State. But many if not most of them knew that slavery would never flourish in the Trans-Allegheny section.

and so realized the futility of continued agitation for legal action to extinguish an institution already doomed by nature. It would be pointless at best, and, at worst, a vicious instrument of sectional and political animosity.

Slavery had developed into a complex and many-sided institution with social, economic, and political implications. The earlier attempts to effect emancipation had been manifestations of its social side, while the work of men like Ruffner was inspired chiefly by its economic implications. But in the attitude of West Virginians after 1850, the political effects of slavery played a determining part. To them slavery was the *bete noir* of political progress, and, as Willey had foreseen, they remained antagonistic toward it. After 1850, however, the chief question between the sections was the matter of taxation, but here again slavery was the root of the difficulty. It was slavery which drove the Eastern Virginians to demand special consideration for a peculiar species of property in 1850, as they had for decades demanded an illiberal and undemocratic government, because they believed their special kind of property vulnerable to democracy.

Aside from the purely sociological and governmental facets of the slavery question, there existed a strong religious prejudice against the institution in Western Virginia, particularly within the Methodist Episcopal Church which further disrupted the harmony of the sections.¹⁴⁹ In the decade of the fifties there was little opportunity for discussion of the question, since no conventions were held and no important legislative clashes occurred. This may be accounted for partly by the growing resentment in Western Virginia at the tactics of the abolitionists, and, after 1856, at the antics of the newly founded Republican Party which was generally prefaced by the adjective "Black" by all of the people of Virginia.

As the nation drifted toward civil war, Western Virginia was caught between the upper and the nether stones, until in desperation she instituted a unique method of maintaining her independence, and to this day the State of West Virginia is regarded as a part of either the North or the South, but reported with something approaching suspicion by both.

¹⁴⁹ See the history of the Methodist Episcopal Church in the State of West Virginia (Unpublished M.A. thesis).

III. SLAVERY AS A FACTOR IN THE FORMATION OF WEST VIRGINIA 1861-63

After the writing of the constitution of 1850, slavery declined in importance as a sectional issue. The Western portion of the State now enjoyed more political power than ever before, with the promise of complete control in the not distant future. There was occasional mention of Negro slavery in the political speeches of the time and in newspaper writings, but, in general, the West was content to rest on its arms and wait for the year 1865 to bring about the long-awaited vote on the basis question.

But whereas things had assumed a more hopeful aspect for the West, the Eastern people were beginning to complain that the tail was wagging the dog, and many of them declared that dismemberment was the only possible method of setting things right. The slave issue was again in prominence on the national scene, and developments on the question of popular sovereignty and the progress of fighting in "Bleeding Kansas" were followed with keen interest by the people of Virginia. With respect to this whole matter, the people of Western Virginia were generally opposed to the expansion of slavery, since they had long been in a position to know its pernicious effects on government, but they did not approve the idea of abolition within the slaveholding states, where the people resident in the area supported the institution.

Few West Virginians had been exposed to the influence of Northern abolitionism, and they regarded the very name as a insult when applied to them. The important thing about slavery in Western Virginia at this time was that it had, for generations, served as the *causa remota* of bitter sectional conflict and had thus established a tradition of opposition to Eastern views. These old patterns of thought ran deep, and when differences occurred, it was easy for the Western people to condemn everything Eastern in the name of oppression, and take slavery the fundamental motive for that oppression.

It is a natural course of events the spokesmen of the transformation made. The reference to slavery during the decade of the 1850s and, at times, even asserted their loyalty to the

State and her institutions. In April, 1856, the *Washington (Pa.) Examiner* carried the following editorial:¹⁵⁰

The inhabitants of that portion of Virginia known as the "Panhandle," are talking seriously of seceding from the old Dominion, and casting in their lot with us from Pennsylvania. . . . It would be a very desirable acquisition to Pennsylvania. The people are thrifty, intelligent and enterprising, and being mostly farmers they would add materially to the "bone and sinew," as well as to the wealth of the Keystone State.

While refraining from lending encouragement to any such move, the *Examiner* gave assurances that Pennsylvania would extend a cordial welcome to the Panhandle people when the time should come. A Wheeling paper replied by disclaiming any such intent on the part of the Panhandle dwellers, and definitely stated:¹⁵¹

The people of the Panhandle are true alike to their State and her institutions. They will rally under the flag of the State to defend the institutions of the State.

But while rebuffing any dismemberment proposals advanced by out-of-the-state sources, the people of the Panhandle, and of the Western area in general, nursed a deep-seated grievance against the planter aristocracy. They were opposed primarily to the slave tax provision in the constitution of 1850, but other laws designed to protect slavery within the State also proved irritating. One of these was a statute which subjected anyone publicly attacking the institution of slavery to a fine of three hundred dollars. Isolated bits of evidence pointing to a sharp resentment of this and similar statutes came to light, as witnessed by the following comment from a Western paper, which, after exulting over the arrival of a number of Swedish families in the area, and urging the need for more such immigration, says:

We will soon be able to command our own terms at Richmond and stretch all such despotic provisions as those which fine a man \$300 for daring to say above board, that his soul is not for sale.

A similar comment in Kentucky about the traditional bad feeling between the sections was the fact that the Eastern gentlemen

Washington Examiner, April 9, 1856
Washington & West

were fond of poking fun at Western members of the Legislature and calling them "Country Jakes." This had long been their habit. B. W. Leigh had been burned in effigy for having characterized the Western people as "the Backwoods Vote."¹⁵³ A later example of the type of buffoonery carried on was the slighting attack of the *Richmond Whig* on the Lieutenant Governor, a Mr. Jackson from Parkersburg. In its columns the editor of the *Whig* asserted that the above mentioned gentleman had behaved very poorly before the Senate, and that his actions indicated to the penetrating mind of the editor that some joker had filled his seat with needles. The *Whig* recommended that a senatorial committee be raised to ascertain if this were true.

The *Wheeling Intelligencer*, in commenting on the matter, suggested that if Jackson had spent more time reading it instead of "trying to ring in with the niggerites so desperately," he might have been able to make a better appearance.¹⁵⁴

Although large scale slavery did not exist in Western Virginia, there were certain manifestations of the institution which aroused the ire of the Western people. The worst offender in this respect was the domestic slave trade which was, to some degree, active in the area. Slaves were marched across Western Virginia in large gangs to the Ohio River and shipped downstream to the plantations of the South, and for a time there was a slave ranch near Clarksburg where Negroes were conditioned for the trip.¹⁵⁵

Anti-slavery feeling was strongest in the Panhandle and the adjacent counties, and weakest in the counties lying along the Kentucky border and those contiguous to the Valley. Even in the Panhandle, however, there was nothing approaching the abolitionist sentiment. The attitude there is well summed up in the following newspaper editorial:¹⁵⁶

As far as it regards the abstract question of slavery—that is, whether it is morally right or wrong—we are safe in saying that there is a general feeling of disapproval against it; and in this particular, we are in line with the sentiment of the whole country. Yet this preponderant feeling is not accompanied by any serious steps to its abolition. On

the contrary, it is directly opposed to all such fanaticism. The balance of opinion is also against slavery upon various other grounds, upon which it is most frequently objected to; as, for example, because it is antagonistic to the interests of the poorer free-laboring classes, because it is the fruitful parent of vice and slothfulness, and is an incubus upon the energy and enterprise of the fairest portion of our wide country. There is still, notwithstanding the over-balance of anti-slave sentiment, a pervading sentiment of purest conservatism respecting the "peculiar institution." We would make no unjust attacks upon the rights of our brethren of the Old Dominion, or of our brethren of the entire South, but, for the sake of ourselves, of our children, and of humanity, we would ask that the aggressive march of slavery be now stayed.

We are situated so that we can form, if any community can, a just comparison between the political advantages and disadvantages of slavery. On the North, we find our neighbors more wealthy, more prosperous, more happy, than they on the South. Let neither us, the writer nor them for whom we speak, be accused of prejudice; for if we have any prejudice, tell us why it is in favor of Northern institutions? As dishonest, selfish citizens, there is no other reason why we should oppose slavery than because it opposes our interests,—as honest lovers of our country, there is none other than because we consider it deleterious to our country. Such is the reasoning, we venture to say, and such the real sentiment, of the majority, in the Pan-Handle. . . . Let the proper time only come, and the Pan-Handle will speak out in unmistakable terms. She will speak no ultra sentiments, yet she will decidedly condemn every advance of slavery.

Yet the Western peoples did not consistently condemn slavery. They were opposed to its expansion, but recognized the danger of the abolition attack. Their anger was aroused by the abolitionist papers circulated in the State and the abolitionist sermons of some church publications and officials." During the 1850's Horace Greeley and other crusading newspapers were roundly condemned in Western Virginia. But while the editors within the Old Dominion were willing to tone down the controversial issue, the great divisions of the nation adopted a more radical doctrine, and heavy going was clearly indicated when South Carolina, through her convention, "declared" the Union on December 20, 1860.

The South Carolina lead was soon followed by similar action in Mississippi, Florida, Alabama, Georgia, Louisiana, and

Texas; and, by February, 1861, the Confederate States of America had been organized. While Buchanan anxiously procrastinated, the Southern leaders further consolidated their plans, which included the absorption of the remaining slaveholding states, and particularly Virginia, whose membership in the Confederacy was imperative if that organization were to endure.

In the meantime Virginia had had the events in the nation under nervous surveillance, and uneasy speculation as to her position in the impending conflict absorbed the attentions of her people. In Mid-November Governor Letcher called a special session of the General Assembly which convened on January 7, 1861, to consider the position of Virginia in the national crisis. There had been much talk of a state convention during the period between the calling of the special session and the time it met, and the Governor, in referring to this agitation, stated, "I see no necessity for it at this time, nor do I now see any good practical result that can be accomplished by it."¹⁵⁰

Despite the Governor's views, the Assembly passed on January 14, a bill providing for the election of members to a state convention, which assembled on February 13. This convention, true to Virginia precedent, contained a preponderance of Eastern delegates, and so might have been expected to conform to Eastern desires.

The membership of the convention, however, was thought to be safely anti-secessionist. When the election was over and the results announced, there was general rejoicing in Western Virginia that this was so.¹⁵¹ In the convention the Western members, opportunists to the last, again posed the issue of the basis and that of discriminatory taxation, and were informed that the East was now ready to grant the requested reform¹⁵² in return for assurances that Western Virginia would support secession. As the sessions continued, the progress of the convention was progressively toward secession,¹⁵³ and Western

¹⁵⁰ "Signs a Lower Note West Virginia Was Made. Proceedings of the First Convention of the People of Northwestern Virginia at Wheeling, May 13, 14, and 15, 1861, and the Journal of the Second Convention of the People of Northwestern Virginia at Wheeling which assembled June 18th, 1861 (Charleston: The State Printer, 1861), p. 11.
¹⁵¹ "The People of Northwestern Virginia," *ibid.*, p. 11.
¹⁵² "The People of Northwestern Virginia," *ibid.*, p. 11.
¹⁵³ "The People of Northwestern Virginia," *ibid.*, p. 11.

papers began to express alarm at the trend of events. In commenting on the course of proceedings, the *Intelligencer* asked, "Is it thus the Western people are to be betrayed? Are their delegates, elected upon declarations of fealty to the Union, to join the league of traitors the moment they set foot within the State Capital?"¹⁴²

Gauging the temper of the West with surprising accuracy, the *Providence (R.I.) Journal* offered the following observations:¹⁴³

There are many indications that the citizens of Western Virginia are thinking of having a little secession of their own.— They are strongly attached to the Union; they do not like the treatment they have received from the slaveholders in the eastern part of the state; they think that the present state constitution makes an unjust discrimination against them, and they detest the secession talk which some of the Richmond people indulge in.

Such, indeed, was the general situation in Western Virginia. Her outstanding men in the Secession Convention spoke against any disruption of the Union. Waitman T. Willey of Monongalia and John S. Carlile of Harrison were notable in this respect, and James Burley of Marshall incorporated a blunt warning in the body of a series of resolutions proposed by him to the convention as follows:¹⁴⁴

6. Resolved, that the right of revolution above recognized can be exercised as well by a portion of the citizens of a State against their State government, as it can be exercised by the whole people of a State against their federal government.

Notwithstanding Western opposition, the Eastern radicals were determined to detach the Old Dominion from the Union and align her with the Confederacy. Accordingly the convention went into secret sessions and threats and intimidation directed against the Western members became the order of the day. Under these conditions a secession ordinance was passed on April 17, 1861. This was to be submitted to the voters of the State for ratification, but the Eastern leaders lost no time in uniting Virginia with the Confederate Government, and the ordinance was rejected even before the vote on ratification was taken.

University of Virginia Library
 February 21 1881
 The State of Virginia
 The Library of the University of Virginia
 Charlottesville, Va.

As the complexion of the Secession Convention revealed itself to the Western people, they reacted in a typical American way by holding a series of mass meetings denouncing secession and pledging loyalty to the Union. These were held with greatest frequency in the Northwestern counties, and served to keep alive the bitterness of Western resentment. To the average Western man the act of the Secession Convention in renouncing the Union was the straw that broke the camel's back. It was the denouement of the long series of oppressions forced on the transmontane people by the Eastern aristocracy, and it definitely meant that some action must be taken.

A new wave of mass meetings swept the Northwestern area and secession was loudly protested. The most important of these meetings was that held at Clarksburg on April 22, 1861, which recommended that delegates be selected to meet in convention at Wheeling to "determine upon such action as the people of Northwestern Virginia should take in the present fearful emergency."¹⁶⁶

In pursuance of this recommendation, a convention assembled at Wheeling on May 13, 1861, and, after debating the wisdom of an effort to create a new state, authorized the election of a constituent convention to meet in June. This "Second Wheeling Convention" passed an ordinance reorganizing the State government on June 19, and filled the major State offices with loyal persons.¹⁶⁷

In the meantime the new state idea, which had been agitated for years, was given wide currency by men like John S. Carlile and Francis H. Pierpont; and, as initial Union military successes made the time opportune, a concerted effort was made to effect dismemberment. The Second Wheeling Convention was reconvened, and on August 20, 1861, enacted an ordinance for the division of the State.¹⁶⁸ During these sessions some of the delegates opposed the formation of a new state because they feared that it might remain slave territory. The separation ordinance was submitted to the sense of the people and ratified by a vote of 18,408 to 781, but the unsettled condition of the area prevented anything like a full vote.

With the die thus cast, delegates were elected to a constitutional convention in October, 1861, and that body assembled to undertake the writing of a constitution for the proposed new state on November 26, 1861. The membership of this body, as was expected, largely represented the new state element, but there was disagreement among the members on several topics of which slavery was one.

The whole attitude of the constitutional convention was that the best interests of the project required that as little as possible be said about slavery during its sessions. The convictions of the individual members ranged all the way from frank abolitionism to ardent pro-slavery sentiments, and the majority of the members feared that a discussion of the topic would result in such disagreement as to destroy the opportunity of erecting a new state. The creation of a new state was the most cherished ambition of most of the members, and, to insure the success of the undertaking, they were willing to remain silent on the matter of slavery, and sought to prevent the abolition sympathizers from precipitating discussion of the subject in the convention.

Anti-slavery sentiment seemed to be concentrated within the breasts of the clerical members of the convention. There were eight ministers included in the membership of the body, and at least half of these were affiliated with the Methodist Episcopal Church, which had been anti-slave in sentiment since its origin.¹⁰⁰

Reluctance to discuss slavery was not confined to the membership of the convention, but was shared by most of the newspapers of the West. Even the *Wheeling Intelligencer*, which was characterized by its neighbor, the *Daily Press*, as an "anti-slavery sheet," had little to say about the matter. On August 2, 1861, the *Intelligencer* posed the question, "Shall the new State be slave or free?" and came out in favor of a free state "as much as a just regard to the interests of all concerned would justify."

Later in October the heading "Shall we have a new State?" was given to the question "What about slavery?" and concluded as

¹⁰⁰ See the testimony of the Constitutional Convention, p. 1.

Whether the constitution will contain such a clause is a matter for the convention to determine, and we doubt not they will determine it wisely and quietly. Whatever their determination of this point may be, it cannot affect the answer to the other question of a free or slave state; For that Kanawha will be, like Ohio and Pennsylvania, before many years, none who have read the language of the great events sweeping over the country can doubt.

This conviction seems to have been typical of the thinking of a majority of the Western people. Its logic runs in the following vein: Slavery is undesirable, but the geographic and economic conditions of Western Virginia have doomed it in this region. There are, however, some slaveholders in the area who support the institution, and, if a concerted effort is made for its abolishment, these persons will react strongly, and their reaction may possibly injure the chance of creating a new state. Therefore, why endanger a God-given opportunity to escape the domination of Eastern Virginia by insisting on a mere moral technicality?

While a policy of strict silence might have sufficed in the Northwestern counties, it could not be made to prevail when the ambitions of the new state men sought to embrace certain of the counties bordering on the Valley or located in that section. The desire to include all of the counties wherein the Baltimore and Ohio Railroad was located created something of a dilemma, since those to the east contained more slaves, and consequently more slave sympathizers than the Northwestern section. This is another reason why the convention sought to avoid any definitely anti-slave position. If those counties, where Southern sentiment ran high, were to be included in the new state, they must not be antagonized by any unfriendly pronouncements against slavery. This whole question of the boundary of the new state was closely linked with slavery and with expediency, and probably goes a long way toward explaining the reluctant attitude of the majority in the convention.

There were men in the convention, however, whose moral convictions forbade them to close their eyes to what they considered the evils of the institution. Such men refused to evaluate the exigencies of the situation and remain tacitly silent

as the majority of the members did, and so the matter of slavery was eventually bound to come to light in the convention.

And come it did on November 30, 1861, when Robert Hagar, representative from Boone County, a Whig, and a minister in the Methodist Episcopal Church, introduced the following resolution: ¹⁷¹

WHEREAS, negro slavery is the origin and foundation of our national troubles, and the cause of the terrible rebellion in our midst, that is seeking to overthrow our government; and whereas slavery is incompatible with the word of God, and detrimental to the interests of a free people, as well as wrong to the slaves themselves.

RESOLVED, that the convention inquire into the expediency of making the proposed New State a free state, and that a provision be inserted in the constitution for the gradual emancipation of all slaves within the proposed boundary of the new state, to be submitted to the people for their approval or rejection.

This philippic aroused absolutely no debate in the convention. It was ordered printed and laid on the table, and for the time the tacit gag rule remained in effect. However, another attempt to get the matter of slavery before the convention was made on December 14, when Gordon Battelle of Ohio County, another Methodist Episcopal minister, introduced the following: ¹⁷²

1. No slave shall be brought into this State for permanent residence, after the adoption of this Constitution.

2. The legislature shall have full power to make such just and humane provisions as shall be needful for the better regulation and security of the marriage and family relatives between slaves; for their proper instruction; and for the gradual and equitable removal of slavery from the State.

3. On and after the 4th day of July, eighteen hundred and — slavery or involuntary servitude, except for crime, shall cease within the limits of this State.

These resolutions were also laid on the table, and no debate on the matter of the propositions was permitted. But, while the convention busied itself with other matters, the Intelligencer carried anti-slavery letters over such signatures as

"Liberty," "Observer," etc. Battelle was not willing to give up the struggle, and January 27, 1862, he presented the following resolutions, which were ordered printed and referred to the committee on Fundamental and General Provisions:¹⁷³

1. No slave shall be brought into this State for permanent residence after the adoption of this Constitution.

2. All children born of slave parents in this State, on and after the fourth day of July, eighteen hundred and sixty-five, shall be free. And the legislature may provide by general laws for the apprenticeship of such children during their minority, and for their subsequent colonization.

But again no opportunity for debate was presented, and there seemed little hope for an emancipation clause in the new constitution. The *Intelligencer* now approved of Battelle's plan and editorialized:¹⁷⁴

The policy of Mr. Battelle's resolutions is to assist nature, just as a gentle medicine in careful hands arrests disease and gradually dispels it from the system. If passed, its effects for good will be felt at once by the new State. If defeated, the bad effect no one can tell.

Battelle had prepared a speech indicting slavery for presentation in the convention when his resolutions should come up for debate; but, since there was no debate, and in view of the fact that a ten-minute rule had been imposed, he was unable to deliver it. It was published in the *Intelligencer*, and also printed in pamphlet form for distribution among the people. In this speech Battelle repeated the customary arguments to show that slavery was a curse, and that it was inexpedient to continue it in Western Virginia.¹⁷⁵

Full credit must be given Gordon Battelle for his continued efforts to make West Virginia a free state. His actions could not have been easy in the face of the determined effort to keep any discussion of slavery from the floor of the convention, and he must have been thoroughly abused as a trouble maker and radical. But Battelle and his followers (outside the convention) believed that unless a definite provision for the removal were placed in the new constitution, slavery might continue to plague the people of Western Virginia. The pro-

posed constitution, as thus far constructed, included a provision that: ¹⁷⁶

Such parts of the common law, and of the laws of the State of Virginia, as are in force within the boundaries of the State of West Virginia when this constitution goes into operation, and are not repugnant thereto, shall be and continue the law of this State, until altered or repealed by the legislature.

This, in effect, put the entire body of Virginia law dealing with the slave and the free Negro population into effect in the new State, and in view of the divided opinion with respect to slavery there, might cause considerable trouble at some future date.

On February 12, 1862, Battelle presented the following resolution: ¹⁷⁷

1. Resolved, that at the time when this constitution is submitted to the qualified voters of the proposed new State to be voted for or against, an additional section to article ____; in the words following:

"No slave shall be brought, or free person of color come, into this State for permanent residence after this Constitution goes into operation; and all children born of slave mothers after the year eighteen hundred and seventy, shall be free—the males at the age of twenty-eight, and the females at the age of eighteen years; and the children of such females shall be free at birth.

"Shall be separately submitted to the qualified voters of the proposed new State for their adoption or rejection; and if a majority of the votes cast for and against said additional section are in favor of its adoption, shall be made a part of article ____ of the constitution, and not otherwise.

2. Resolved That the committee on the Schedule be, and they are hereby instructed to report the necessary provisions for carrying the foregoing resolutions into effect."

It would seem that Battelle had now given up the attempt to force an emancipation clause through the convention, and had joined the rest of the generally anti-slavery attitude of the people in favor of the constitution that which the convention would not. Battelle separated off its with respect

to the slavery question had finally convinced some of the members that the matter should at least be considered, and it was accordingly moved to make this last of Battelle's resolutions the order of the day for future discussion; but, on the motion of Ephraim D. Hall of Marion, it, too, was laid on the table without debate.¹⁷⁸

On the following day, however, it was suggested that the vexed question raised by Battelle might be compromised by the expedient of raising a committee on slavery.¹⁷⁹ This observation led to the first real discussion of the question in the convention, and even then nothing like open debate was carried on. It was soon ascertained that the first point of Battelle's resolutions could be carried with no difficulty, but that the fate of the gradual emancipation clause was doubtful. Several members expressed themselves as desiring the success of the new state project above everything else, but as being completely ignorant as to what action in regard to slavery would best assure it.

On the motion of John A. Dille of Preston, the first section of the Battelle resolutions was incorporated into the new constitution by a 48-1 vote. A particular effort was made to make this a unanimous vote, since it was felt that such unanimity of opinion would be helpful to the new State when it should stand before the bar of Congress. Accordingly the dissenting member, William W. Brumfield of Wayne, was brought to reconsider his ballot, which he refused to do, saying that while he "didn't take as much part in the discussions as some of the members," he always "did his own voting."¹⁸⁰

Ephraim Haymond of Marion (a proslave advocate) congratulated the convention on its smooth handling of the matter and asked Battelle "never to mention slavery here again." The anti-slavery members expressed disappointment at the weak slave clause inserted in the constitution,¹⁸¹ and one of them explained the failure to incorporate a free state provision in the document as due to the "miserable bungling of the free state men" who had allowed themselves to be outvoted by the proslave

whenever the President of the United States shall be satisfied that any State shall have lawfully abolished slavery within and throughout such State, either immediately or gradually, it shall be the duty of the President, assisted by the Secretary of the Treasury, to prepare and deliver to such State an amount of 6 per cent interest-bearing bonds of the United States equal to the aggregate value at \$ _____ per head of all the slaves within such State as reported by the census of the year 1860; the whole amount of any one State to be delivered at once if the abolishment be immediate, or in equal annual installments if it be gradual, interest to begin running on each bond at the time of its delivery, and not before.

With the President's desire for emancipation thus announced, and the mild quality of the method apparent, the people of Western Virginia began to believe that they might still propitiate Congress and, at the same time, escape the financial consequence of emancipation by persuading the federal government to foot the bill. Shortly after the first presidential announcement of a plan for compensation, a mass meeting held at Buckhannon went on record as approving the idea, and recommended its adoption in West Virginia.¹⁶⁵

On May 29, 1862, W. T. Willey of Morgantown, presented the petition for the admission of West Virginia to the Senate of the United States, and, in a brief speech, recounted the events leading to the action taken for the purpose of forming the new state. The memorial, after scant discussion, was referred to the Senate Committee on Territories.¹⁶⁶ A similar petition was presented to the House of Representatives on June 1, by William G. Brown of Preston County, and was similarly referred to the House Territorial Committee.¹⁶⁷

With men like Roscoe Conkling, Charles Sumner, and Thaddeus Stevens in Congress, many West Virginians trembled for their bill. It was almost a certainty that the slavery matter would prove a serious obstacle. The *Intelligencer* published "An Appeal of the People of West Virginia to Congress," which was also distributed as a pamphlet, in an effort to aid the cause. The fear of congressional rejection because of the inclusion of an emancipation clause is revealed by this "Appeal." In it there was published an "acceptance" of the "Na-

tion's Proposal" for emancipation, and assurances that West Virginia was destined to become a free state.¹⁸⁸

The bill for the admission of West Virginia attracted country-wide attention, and few newspapers failed to offer their comments pro and con. The New York papers generally favored the admission of the State with the constitution as it was, rather than the setting up of congressional conditions.¹⁸⁹ The arguments generally advanced were that it would be better to create a new state where the slaves would have a better than even chance for freedom than to refuse and so assure that they remained slaves.

On June 23, 1862, Senator Ben Wade from Ohio, chairman of the Committee on Territories, reported Senate Bill 365 for the admission of West Virginia. At this time it was read and passed to a second reading.¹⁹⁰ Meanwhile Representative Brown, on June 25, introduced a similar bill in the House, where it was read a first and second time and referred to the Committee on Territories.¹⁹¹

The Senate Bill was largely the work of John S. Carlile from Clarksburg, Virginia, who, as the member best acquainted with all the facts concerning the formation of the new state, had been entrusted with the writing of a bill for its admission. Since Carlile had been one of the most active advocates of the new state during the days of the Western mass meetings and the Wheeling conventions, it was felt that the project was in good hands.

Senate Bill 365, however, was a dash of cold water to the Western hopes of statehood. It provided for the passage of an enabling act to permit the calling of another convention in Western Virginia for the purpose of constructing a new constitution, which would be required to contain an abolition clause and which must also include additional Eastern counties within the territory of the new State.¹⁹² Such self-stultifying proposals could only mean the end of the new state if they were passed by Congress.

U. S. SENATE, June 1, 1862

U. S. HOUSE OF REPRESENTATIVES, June 2, 1862

U. S. SENATE, June 27, 1862

The Constitution of West Virginia, attached to the petition for admission to the Union, provided for the inclusion of forty-four specified counties, and the provisional inclusion of two other groups of counties as follows: if a majority of the votes cast in the counties of Pendleton, Hardy, Hampshire, and Morgan favored the new constitution, then they were to be included. If they were so included, then, by a majority vote the counties of Berkeley, Frederick, and Jefferson might also be annexed.¹⁹³ Such unusual territorial provisions were dictated as indicated above, by a desire to keep the Baltimore and Ohio Railroad out of the hands of the Eastern Virginians.¹⁹⁴

By the time the matter came before Congress, the necessary vote had been taken, and the four counties of the first provisional group had been added to the new State thus making a total of forty-eight, but the three counties of the second provisional group were not included because they had not indicated a desire to become a portion of West Virginia. Carlile's bill would make it mandatory that these three and twelve other border counties be added to the new State.

Such an addition was rendered practically impossible, however, by the requirement that an abolition clause be incorporated into the constitution. Those fifteen counties contained a considerable number of slaves and proslave sentiment was strong in them. In view of these considerations, the bill was interpreted as evidence that Carlile had betrayed the new State forces. He was roundly lambasted throughout Western Virginia and his motives impeached in Congress.

While a true appraisal of Carlile's motives is obviously impossible, it would appear that the extreme vituperation poured on his head was unjustified. Although a new State man, Carlile was not an abolitionist nor even an emancipationist. He had once publicly stated, "I believe that slavery is a social, political, and religious blessing,"¹⁹⁵ and personally owned slaves of his own purchase. While slavery had served as the cause of the bad feeling between the sections of Virginia, many of the interests depended only indirectly on the institution, and it was possible for a man to be in favor of erecting a new

¹⁹³ *Constitution of West Virginia*, Article I, section 1.
¹⁹⁴ *Journal of Proceedings of the Convention and of the Ratification of the Constitution of West Virginia*, 1863, p. 201.
¹⁹⁵ *Washington Post*, 1863, p. 2.

state in Western Virginia without desiring the freeing of the Negroes. Such, apparently had been Carlile's attitude in the beginning, but as the congressional determination to force emancipation on the State became apparent, he seems to have decided that no new state would be preferable to emancipation. If Carlile's actions are to be taken in good faith, the inexplicable thing about his bill was the requirement that an emancipation clause be placed in the new constitution. This provision does not appear to square with his true sentiments, and seems to offer the best justification for the charges of betrayal hurled at him.

On June 26, Senator Wade instituted discussion of the West Virginia bill in the Senate. The expected opposition developed immediately as Charles Sumner of Massachusetts pointed out that the provision for gradual emancipation in the Carlile bill recognized the existence of slavery within the State for the duration of the lives of the present generation of slaves. Sumner proposed to strike out that portion of the bill and insert, "within the limits of the said State there shall be neither slavery nor involuntary servitude, otherwise than in punishment of crime whereof the party shall be duly convicted."¹⁹⁶

The order of business in the Senate necessitated termination of the discussion at that point, but it was revived on June 27, and then postponed until July 1, when Sumner's amendment was discussed.¹⁹⁷ Objections to the bill were raised by Senator Collamer of Vermont because it would admit the new state without any further reference to Congress. As these objections of the Senator unfolded, Willey of Virginia presented the following amendment which he believed would meet all objections:¹⁹⁸

West Virginia is hereby admitted into the Union on an equal footing with the original States in all respects whatever, and upon the fundamental condition that from and after the 4th day of July 1863 the children of all slaves born within the limits of the said State shall be free, and that no law shall be enacted by said State in which any citizens of either of the United States shall be excluded from the enjoyment of the rights and privileges and immunities to which such citizen is

entitled under the Constitution of the United States: Provided, that the convention that ordained the constitution as aforesaid, to be reconvened in the manner prescribed in the schedule thereto annexed, shall by a solemn public ordinance declare the assent of the said State to the said fundamental condition, and shall transmit to the president of the United States on or before the 15th day of November 1862, an authentic copy of said ordinance, and upon the receipt whereof the President by proclamation shall announce the fact; whereupon, and without further proceedings on the part of Congress, the admission of the said State into this Union shall be considered complete.

With this substitute measure under consideration, several speeches were made. Willey, in defending the substitute, made a plan for gradual emancipation rather than abolition as desired by Sumner. Wade of Ohio opposed the Carlile bill as originally presented and said in connection with the inclusion of additional counties in the new state: ¹⁹⁹

On this subject of slavery they feel entirely different. There is an animosity between them that is more intense, I believe, from what I gather from the best men of that section, than that which exists between any of the northern and southern states.

Discussion of the bill was resumed on July 14, at which time the Sumner abolition amendment was defeated.²⁰⁰ At this time it seemed that the fate of those slaves who were already in existence in Western Virginia was the principal concern of the Senate. Wade offered an amendment to the Willey substitute to alleviate their condition as follows: ²⁰¹

And that all slaves within the said State who shall at the time aforesaid be under twenty-one years of age, shall be free when they arrive at the age of twenty-one.

When this amendment to the amendment had been approved by the Senate, and it appeared likely that the amendment might also be passed, Carlile attempted to put in an amendment requiring ratification of the constitution by a majority of the "people" of West Virginia, which he later changed to "qualified voters." Carlile now seemed committed to an abolitionist course. He spoke emphatically against what he

called "conditions" and "Congressional dictation." As the course of discussion ebbed and flowed, Willey withdrew his original amendment and offered a substitute based on the House Bill drawn up by William G. Brown. This provided:

That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the Original States in all respects whatever, and until the next general census shall be entitled to three members in the House of Representatives of the United States: *Provided always*, that this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

SEC. 2. It being represented to Congress that since the Convention of the 26th of November, 1861, that framed and proposed the constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same, and inserting the following in its place, namely, "The children of slaves born within the limits of this State after the 4th day of July, 1863, shall be free, and no slave shall be permitted to come into the State for permanent residence therein;" Therefore,

Be it further enacted, that whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the State at such time as the convention may provide, make and ratify the change aforesaid and properly certify the same under the hand of the President of the convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of the said proclamation.

This last proposition seemed acceptable to Congress if only some means of caring for slave children born before the fourth day of July, 1863, could be worked out. Senator Lane of Kansas solved the difficulty with the following amendment, to be inserted after the word "free" in the Willey-Brown substitute:

And that all slaves within the said State who shall at the time of emancipation be under the age of ten years, shall be free when they arrive at the age of twenty-one years and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years.

With the approval of this amendment it looked like clear sailing for the bill in the Senate, but Carlile continued his efforts to obstruct its passage. Despite his actions, which won him the enmity of some of the Senators, the bill was passed by the Senate on July 14, 1862, by a vote of 23 to 17, and the House was informed of the Senate action on the following day.²⁰⁶

On July 16, the Senate bill was introduced into the House and read the first and second time; and, on motion of Roscoe Conkling, further consideration was postponed until December, 1862.²⁰⁸ Such action by the House caused the people of Western Virginia to adopt a pessimistic attitude regarding the possibility of their admission to the Union. There were some cheerful notes struck, however, and many persons had confidence in the final success of the new state movement. As one hopeful person expressed it:²⁰⁷

When the people are left to say new State and no "nigger," or "nigger" and no new State, they will say with an emphasis that will make the negroirats stand in awe, *no nigger*, but a *new State*.

The new state advocates left no stone unturned in whipping up enthusiasm for the movement. Senator Willey and Governor Pierpont canvassed the Northwestern section of the State and vied with each other in oratorical outpourings. Such group meetings did a great deal to acquaint the people with the true status of the bill in Congress, and were usually terminated with three cheers for Willey and three groans for Carlile.²⁰⁸

On December 9, 1862, Senate Bill 365 was again taken up in the House of Representatives, and ran into serious trouble when different members expressed grave doubts as to the constitutionality of the whole procedure involved in the chain of events leading to the admission of the new State.²⁰⁹ The chief point of doubt seemed to be that concerning the alleged consent of the Legislature of Virginia, which several members held to be a mere legal fiction.

But there were other objections besides those dealing with the purely constitutional aspects of the matter. Joseph Seegar,

another representative from Virginia, argued against the expediency of the measure, saying that it would be much easier to restore the Union if Virginia were left whole. He closed with the impassioned plea: ²¹⁰

Let there not be two Virginias. Do not, Mr. Speaker, Oh! do not break up the rich cluster of glorious memories and associations that gather over the name and history of this ancient and once glorious and noble commonwealth.

Despite all objections, the bill was read a third time and passed by a vote of 96 to 55.²¹¹ The majority in the House seemed to have adopted the view of Thaddeus Stevens, who said that he would vote for the bill because it seemed the proper thing to do, and not because he believed there was any constitutional justification for the act.

The final passage of the bill by the House of Representatives was the occasion for wild rejoicing in Northwestern Virginia. On the evening of December 19, Morgantown was illuminated from one end to the other with "several thousand brilliant lights." At eight o'clock Kiger's Bugle Band marched down Main Street playing "Hail Columbia" as hard as they could blow. Meantime every firearm in the city was discharged repeatedly, and the celebration ended with a rousing rendition of "Yankee Doodle" in the Court House Square.²¹²

Such celebrations were somewhat premature in view of the fact that the presidential signature was yet required to make the bill a law. President Lincoln was sorely perplexed over the matter of the admission of West Virginia, but finally decided in favor of the new state on grounds of expediency. "Then, too," he wrote, "It turns that much slave soil free."²¹³

The presidential signature was attached and the bill became law on January 31, 1862; but admission was only conditional, and it yet remained for the people of the proposed state to meet the condition of their admission before becoming full members of the Union. Accordingly efforts were bent toward re-assembling the constitutional convention. Several of its members were now dead and new elections had to be

²¹⁰ "Speeches of Thaddeus Stevens," *Complete Works*, 2
New York: The Century Company, 1894, II, p. 207.

held to select replacements for them. These elections were seized on by the enemies of the new State in an effort to impede the progress of conformity to the congressional requirement, and some hot contests were waged. The most severely contested election occurred in Ohio County where a replacement had to be chosen for Gordon Battelle, who had died in service as a chaplain with West Virginia troops, and so did not survive to witness the final triumph of his principles.

The elections, however, resulted in the installation of new state men in most of the vacancies, and the recalled session met in Wheeling on February 12, 1863, and, after passing resolutions of respect in honor of Gordon Battelle, undertook the work of making the constitution conform to the congressional standard.²¹⁴

On the afternoon of the first day of the recalled session Senator Willey addressed the convention. He expressed surprise that there should be any opposition to the formation of the new state, and spent some time trying to authenticate the legitimacy of the Reformed Virginia Legislature which had consented to dismemberment. He also dealt with the principal objection of Carlile and his followers²¹⁵ which had to do with "Congressional Dictation." Willey pointed out that there was ample precedent for such procedure and cited the cases of Missouri, Michigan, Wisconsin, and other States to show that this was so.²¹⁶

But, Willey continued, the real reason behind all this cry of congressional dictation was objection to the fact that West Virginia was to become a free state.²¹⁷ He recounted the number of slaves within the region to show that slavery was not so well entrenched nor so financially rooted in the economy of the State as to make any interference with it fatal. He also employed the time-honored geographical argument to show that slavery could never flourish in the region in any event, and that, therefore, abolition of the institution was really no sacrifice. In closing his speech he anticipated the future industrial development of the State and held that the course of

²¹⁴ Journal of the Constitutional Convention, III p. 480.
²¹⁵ The same was done in the case of the new state and introduced an amendment to the constitution designed to defeat its admission.
²¹⁶ Journal of the Constitutional Convention, III p. 487.

industry there would preclude any employment of slaves in the area.

There still existed a desire on the part of some members of the convention to grant compensation to slave owners at federal expense. A committee was appointed to ascertain if a provision for compensation could be written into the constitution without the necessity of referring the whole question to Congress once more. This committee reported that no specific provision was needed, since the owners of slaves would be able to collect their fair value under the provision of the proposed constitution which forbade the taking of private property for public use without just compensation to the party concerned.²¹⁸

On February 16, James H. Brown of Kanawha, who was regarded as the strongest proslave man in the convention, sought the passage of a resolution petitioning Congress for the appropriation of two million dollars to be used to compensate masters of slaves freed in West Virginia. This resolution, designed to put the convention on record as favoring compensation, was rejected; but the necessary amendment, as specified by Congress, was approved by a vote of 54 to 0, and on February 18, the amended constitution was adopted by the convention.²¹⁹

While shying away from the Brown resolution concerning compensation, the convention was anxious, nonetheless, to have the federal government aid in the expense of emancipation, and a committee was raised to draft a special request for congressional aid. This petition was written and approved,²²⁰ and the remaining time of the recalled session taken up with the arranging of the necessary election schedule, and the matter of deciding whether soldiers should be permitted to vote.

Before adjourning, the convention adopted an "Address to the People of West Virginia" which sought to win support for the amended constitution in the forthcoming elections. In the address an attempt was made to play down the importance of the amendment concerning slavery, and it was stated that,

²¹⁸ *Ibid.*, p. 218.
²¹⁹ *Ibid.*, p. 219.
²²⁰ *Ibid.*, p. 220.

"The first session of the convention were [sic] nearly equally divided as to the propriety of inserting in the constitution a clause providing for gradual emancipation."²²¹

On March 26, 1863, the people voted on the amended constitution and ratified it by a count of 27,749 to 572.²²² This result was certified to Governor Pierpont by the president of the convention, and Pierpont immediately communicated the certification to President Lincoln, who, on April 21, 1863, issued the proclamation required by the congressional act. In compliance with the terms of that act, West Virginia became the thirty-fifth State of the American Union on June 20, 1863.

The institution of slavery had played a fundamental part in shaping the events which led to the erection of a separate state in Western Virginia, and it was the same institution which nearly prevented the fulfillment of the long-cherished dream of independence from the Eastern section. But even after its admission to the Union, slavery was still not dead in West Virginia. The emancipation clause in her constitution freed all children born of slave parents after July 4, 1863, and there was a provision for the freeing of those under twenty-one years of age on that date; but in the case of those over the age of twenty-one, there was no freedom provision.

The question as to how these slaves were finally freed is often asked, and usually incorrectly answered. The Emancipation Proclamation of January 1, 1863 did not affect them since the region was not considered to be in rebellion against the United States, and the thirteenth amendment to the federal constitution came after their freedom had been accomplished.

The plight of the remaining slaves excited some attention in the new State of West Virginia, and newspaper agitation was carried on for their emancipation. That the institution was already doomed was clearly indicated by action on the national scale. The thirteenth amendment, prohibiting slavery, was passed by the United States Senate on April 8, 1864, but failed in the lower house. It was approved by the Representatives, however, on January 31, 1865, and submitted to the States for ratification.

²²¹ *Ibid.*, 21, p. 528.
²²² *Annals of West Virginia*, Vol. II, p. 233.

Governor Arthur I. Boreman, in his annual address to the West Virginia Legislature in January, 1865, called attention to the proposed federal constitutional amendment, and said: ²²³

If it shall happen that during the session of the present Legislature, any action on your part is needed to further the proposed amendment, or to facilitate its ratification by this State, I trust you will not hesitate to take such action.

But, before the matter of the ratification of the federal amendment came before the legislature, a motion was made in the House of Delegates to raise a committee to report a bill for the immediate abolition of slavery within the State.²²⁴ On January 26, James Harvey Ferguson from Cabell County reported such a bill from committee, and there seemed to be little opposition to its enactment.²²⁵ The bill was read the second time in the House on January 30, and an attempt was made to substitute a constitutional amendment for the bill as some members believed it to be contrary to the State Constitution.

On February 1, the bill again came up in the House and, after a sharp exchange had occurred over the constitutional aspects of the bill, it was approved (on February 2) and sent to the Senate. In the upper house an attempt was made to amend the bill so as to require the compensation of owners, but that provision was not included as the bill was approved 17 to 1. The dissenting vote was cast by Hiram Haymond from Marion County, a well-known secessionist sympathizer.

As it finally appeared on the statute books, the bill abolishing slavery in West Virginia read as follows: ²²⁶

Be it enacted by the Legislature of West Virginia:

1. All persons held to service or labor as slaves in this State, are hereby declared free.

2. There shall hereafter be neither slavery nor involuntary servitude in this State, except in punishment for crime whereof the party shall have been duly convicted.

By the action of their Legislature on February 3, 1865, the people of West Virginia vindicated the judgement of Gordon

²²³ *Washington Constitution*, January 10, 1865.
²²⁴ *Ibid.*, January 21, 1865.
²²⁵ *Ibid.*, January 27, 1865.
²²⁶ *Statute of the Legislature (1865)*, p. 6.

men and the many other men who had fought to make Western Virginia free soil, and the descendants of these men could well take pride in the fact that slavery was not abolished in West Virginia by congressional authority, but by the people through their legislative representatives.